

Title XII ZONING ORDINANCE

Chapter 1. Enacting Provisions	3
Sec. 12-1-1. Title and purpose.	3
Sec. 12-1-2. Zoning district map.	3
Sec. 12-1-3. Zoning district boundaries.	3
Sec. 12-1-4. Compliance required and application of regulations.	4
Sec. 12-1-5. Definitions.	5
Chapter 2. Zoning Procedures and Administration	15
Sec. 12-2-1. Zoning upon annexation.	15
Sec. 12-2-2. Nonconforming uses and structures.	16
Sec. 12-2-3. Amendments to Zoning Ordinance and districts, administrative procedures, and enforcement.....	20
Sec. 12-2-4. Administration and enforcement.	24
Sec. 12-2-5. Building permits; certificates of occupancy and compliance.	24
Chapter 3. Zoning Districts	24
Sec. 12-3-1. Zoning districts established.	24
Sec. 12-3-2. AG Agricultural.	25
Sec. 12-3-3. RE Residential Estate.	27
Sec. 12-3-4. RL Residential Lake Lots.	28
Sec. 12-3-5. R1 One-Family Residential.	30
Sec. 12-3-6. R2 Two-Family Residential.	31
Sec. 12-3-7. R3 Multifamily Residential.	32
Sec. 26. Historic overlay district.....	34
Sec. 12-3-8. CBD Central Business District.	59
Sec. 12-3-9. C1 Commercial.	63
Sec. 12-3-10. C2 Commercial/Interstate.	65
Sec. 12-3-11. I Industrial.	66
Sec. 12-3-12. Overlay and special districts.	69
Chapter 4. Reserved.	76
Chapter 5. Development Standards	76
Sec. 12-5-1. Accessory building and use regulations.	76
Sec. 12-5-2. Exterior construction and design requirements.	77
Sec. 12-5-3. Home occupations regulations.	80
Sec. 12-5-4. Off-street parking and loading requirements.	81

Sec. 12-5-5. Landscape/screening requirements.	89
Sec. 12-5-6. Performance standards.	95
Sec. 12-5-7. Sign regulations.	99
Sec. 12-5-8. Supplemental regulations.	125
Sec. 12-5-9. Sexually oriented businesses.	134
Chapter 6. Penalties and Nonconformities	125
Sec. 12-6-1. Effect of interpretation.	158
Sec. 12-6-2. Preserving rights in pending litigation and violations under existing ordinances.	158
Sec. 12-6-3. Offenses, penalty and enforcement procedures.	158

Chapter 1. Enacting Provisions

Sec. 12-1-1. Title and purpose.

This Ordinance shall be known and may be cited as the City of Weatherford "Zoning Ordinance".

As authorized by Chapter 211 of the Texas Local Government Code, the zoning regulations and districts as herein established have been made in accordance with an adopted comprehensive plan for the purpose of promoting the public health, safety, morals and general welfare, and protecting and preserving places and areas of historical, cultural and/or architectural importance and significance within the City. They have been designed to lessen the congestion in the streets; to secure safety from fire, panic and other dangers; to ensure adequate light and air; to prevent the overcrowding of land and thus avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, wastewater treatment, schools, parks and other public requirements. They have been made with reasonable consideration, among other things, for the character of each zoning district and its peculiar suitability for the particular uses specified; and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the City.

Sec. 12-1-2. Zoning district map.

- (a) The City is hereby divided into zones, or districts, and the boundaries of zoning districts set out herein are delineated upon the zoning district map of the City, which may also be cited as the "Zoning Map", said map being adopted as a part of this Ordinance as fully as if the same were set forth herein in detail.
- (b) One (1) original of the zoning district map shall be filed in the office of the City Secretary and labeled as "Official Zoning Map of the City of Weatherford, Texas." This copy shall be the official zoning district map. In case of any question, this copy, together with amending ordinances, shall be controlling.
- (c) A copy of the Zoning Map shall be placed in the office of the City Manager. The map copy shall be used for reference and shall be maintained up-to-date. Reproductions for informational purposes may only be made of the official zoning district map or this copy.
- (d) The Zoning Map may be amended from time to time by the adoption of an ordinance amending this Ordinance. The Zoning Map shall be periodically updated to reflect these amendments. In the event of a discrepancy between the Zoning Map and an amending ordinance, the amending ordinance shall control.

Sec. 12-1-3. Zoning district boundaries.

The zoning district boundary lines shown on the Zoning Map are usually along streets, alleys, property lines, or extensions thereof. Where uncertainty exists as to the boundaries of districts as shown on the Zoning Map, the following rules shall apply:

- (a) Boundaries shown as approximately following platted lot lines shall be construed as following such lot lines.
- (b) Boundaries shown as approximately following city limits shall be construed as following such city limits.

(c) Boundaries shown as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline.

(d) Boundaries shown as parallel to, or extensions of, features described in this Section shall be so construed. Distances not specifically indicated on the Zoning Map shall be determined by the scale of the map.

(e) Whenever any street, alley or other public way is vacated by official action of the City Council, or whenever such area is franchised for building purposes, the zoning district line adjoining each side of such street, alley or other public way shall be automatically extended to the centerline of such vacated street, alley or public way and all areas so involved shall then and henceforth be subject to all regulations of the extended districts.

(f) Where physical features on the ground are at variance with information shown on the Zoning Map, or if there arises a question as to how or whether a parcel of property is zoned and such question cannot be resolved by the application of this Section, then the Board of Adjustment shall interpret the zoning district boundaries.

(g) If the zoning of property is invalidated by a judgment of a court of competent jurisdiction, the property shall be considered classified as "AG" (Agricultural) in the same manner as provided for newly annexed territory.

(h) Zoning changes which are still valid and which were made between the effective date of the previous Zoning Ordinance (Ordinance No. 2003-48, as amended), adopted on October 28, 2003, and the effective date of this Ordinance are indicated in approximate locations on the Zoning Map. For exact legal descriptions, refer to the adopting ordinances for each particular zoning change.

Sec. 12-1-4. Compliance required and application of regulations.

(a) All land, buildings, structures or appurtenances thereon located within the City which are hereafter occupied, used, constructed, erected, removed, placed, demolished, and/or converted shall be occupied, used, erected, altered, removed, placed, demolished and/or converted in conformance with the zoning regulations prescribed for the zoning district in which such land or building is located, as hereinafter provided, or such shall be subject to penalties as per this Ordinance. All of the standards and regulations prescribed herein shall be considered as the minimum requirements unless explicitly stated otherwise.

(b) No uses shall be allowed which are prohibited by state or federal law or which operate in excess of state or federal environmental, pollution or performance standards as determined by the U.S. Environmental Protection Agency (EPA), Texas Air Control Board (TACB), Texas State Department of Health (TSDH), Texas Commission on Environmental Quality (TCEQ), Federal Aviation Administration (FAA), Federal Communications Commission (FCC), or any other applicable state or federal agency, as the case may be.

(c) No lot upon which a building has been erected shall later be so reduced in area that the setbacks, yards and/or open spaces shall be smaller than those required by this Ordinance, nor shall a part of a yard or other open space required by this Ordinance for any building/lot

be included as a part of a yard or other open space similarly required for another building/lot.

Sec. 12-1-5. Definitions.

For the purpose of these regulations, certain terms and words are to be used and interpreted as defined hereinafter. Words used in the present tense shall also include the future tense; words used in the masculine gender shall also include the feminine gender; words used in the singular number shall also include the plural number; and words in the plural number shall also include the singular number, except where the natural construction of the writing indicates otherwise. The word "shall" is mandatory and not directory. For any term or use not defined herein, Webster's Dictionary (latest edition) shall be used.

Accessory dwelling. A separate living unit, detached from the primary structure, complete with kitchen, bathroom and sleeping facilities.

Accessory structure. A structure located on the same premise that is customarily incidental, detached and subordinate to the primary structure or use.

Accessory use. A use that is customarily incidental, appropriate and subordinate to the principal use of land or building(s).

Agriculture. The use of any tract of land for the production of animal or vegetable life; uses include, but are not limited to, the pasturing, grazing, and watering of livestock and the cropping, cultivation, and harvesting of plants.

Airport or landing field. A place where aircraft can land and take off generally equipped with hangars, facilities for aircraft refueling and repair, and various accommodations for passengers.

Alley. A minor right-of-way that is dedicated to public use and which affords a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility purposes.

Amusement services. A commercial facility that includes, but is not limited to, bowling alleys, movie theatres, music halls, indoor skating rinks, video arcades, pool and billiard halls, shuffleboard courts, baseball hitting ranges, miniature golf, golf driving ranges and shooting arcades.

Appliance repair. The servicing of a piece of equipment, usually operated electrically, especially for use in the home or for performance of domestic chores, such as a refrigerator, washing machine, or toaster.

Applicant. The owner of record of a property, the agent or lessee thereof with the approval of the owner of record in a notarized form, or a person holding a bona fide contract to purchase the property with approval of the property owner (or their authorized representatives).

Art gallery or museum. An institution for the collection, display and/or distribution of objects of art or science, and which is typically sponsored by a public or quasi-public agency and generally open to the public.

Assisted living facility. An establishment that furnishes, in one (1) or more facilities, food and shelter to four (4) or more persons who are unrelated to the proprietor of the establishment and provides personal care services pursuant to Chapter 247, Texas Health and Safety Code.

Bed and breakfast/boarding house. A dwelling arranged or used for lodging for compensation, with or without meals.

Building. Any structure used or intended for supporting or sheltering any use or occupancy.

Building height. The vertical distance from grade plane to the average height of the highest roof surface.

Building line. The line established by law, beyond which a building shall not extend, except as specifically provided by law.

Building, main or primary. A building in which the principal use of the lot on which it is situated is conducted. In a residential district any dwelling shall be deemed to be a main building on the lot on which it is situated.

Building official. The officer or other designated authority (or his/her designee) charged with the administration and enforcement of the Building Code.

Building permit. Written authorization as required by the current Building Code, issued by the Building Official, for the erection, construction, reconstruction, alteration, repair, conversion, demolition, moving or maintenance of any building, structure or improvement to a given lot or tract of land or portion thereof, and which allows construction to proceed in accordance with construction documents approved by the Building Official.

Camp grounds. An area of non-residentially zoned land on which accommodations for temporary occupation are located or may be placed. This includes, but is not limited to tents and recreational vehicles.

Car wash. A place or business equipped for washing cars and other motor vehicles.

Carport. A structure that is open on a minimum of two (2) sides and designed or used to shelter not more than three (3) vehicles and not to exceed twenty-four (24) feet on its longest dimension. Also called "covered parking area."

Cemetery or mausoleum. A place that is used or intended to be used for interment, and includes a graveyard, burial park, or mausoleum pursuant to Chapter 711, Texas Health and Safety Code.

Cemetery, pet. Same as cemetery except intended for interment of dead animals.

Certificate of occupancy. An official certificate issued by the City through the Building Official which indicates conformance with the zoning regulations and building codes and which authorizes legal use of the premises for which it is issued.

Child care facility. A facility licensed, certified, or registered by the department to provide assessment, care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility, for all or part of the twenty-four (24) hour day, whether or not the facility is operated for profit or charges for the services it offers.

Church/Place of worship. An institution that people regularly attend to participate in or hold religious services, meetings, or other activities. This term does not carry a secular connotation and includes the buildings or other locations in which the religious services of any denomination are held.

City. The City of Weatherford, Texas.

City Council. The governing body of the City.

City Manager. The City Manager of the City or his/her designee.

Civic center. A building or group of buildings containing administrative offices for the operations of local government that is 1) owned and operated by the City of Weatherford and 2) used predominantly for office and meeting space for local government and/or community activities.

Community home. Community-based residential home pursuant to Chapter 123, Texas Human Resource Code.

Community service. A facility that is designed for the benefit of the public or its institutions including but not limited to community centers, libraries, post offices, governmental agencies, etc.

Comprehensive plan. Document adopted by the city that consists of graphic and textual policies which govern the future development of the city and which consists of various components governing specific geographic areas and functions and services of the city.

Continuing care facility. A place in which a person provides continuing care to an individual pursuant to Chapter 246, Texas Health and Safety Code.

Convalescent and nursing homes and related institutions. An establishment that furnishes, in one (1) or more facilities, food and shelter to four (4) or more persons who are unrelated to the proprietor of the establishment and provides minor treatment under the direction and supervision of a physician licensed by the Texas State Board of Medical Examiners, or other services that meet some need beyond the basic provision of food, shelter, and laundry pursuant to Chapter 242, Texas Health and Safety Code.

Country club (private). A land area and buildings which may include a golf course, clubhouse, dining room, swimming pool, tennis courts and similar recreational or service uses available only to members and their guests.

Court. An open, unobstructed space, bounded on more than two (2) sides by the walls of a building. An inner court is entirely surrounded by the exterior walls of a building. An outer court has one (1) side open to a street, alley, yard, or other permanent open space.

Density. The total number of residential buildings allowed upon a given tract of land usually expressed in total number of units per gross acres or net acre.

Detached. Having no physical connection above the top of the floor line of the first floor with any other building or structure.

Director of Planning and Development. The City official appointed by the City Manager to administer and interpret the provisions of this Ordinance, or his/her designee.

Director of Utilities. The City official appointed by the City Manager to assist in the management and direction of the city's water, sewer, and electric utility systems, or his/her designee.

Dwelling. Any building or portion thereof, which is designed or used exclusively for residential purposes.

Dwelling, multifamily. A building or portion of a building having suitable accommodations for three (3) or more families, living independently of each other, who may or may not have joint uses of utilities, halls, yards, etc. This term includes premises occupied more or less permanently for residential purposes in which rooms are occupied in apartments, suites or groups, such as apartments, dormitories, lodginghouses, roominghouses, and all the dwellings similarly occupied.

Dwelling, multiple single-family. See “townhouse”.

Dwelling, one-family. A detached building used exclusively for residential purposes having suitable accommodations for only one (1) family.

Dwelling, two-family. A detached building used exclusively for residential purposes and designed for or occupied by two (2) families living independently of each other.

Easement. A grant of one (1) or more of the property rights by the property owner to and/or for the use by the public, a corporation or another person or entity.

Educational facilities. Public and private primary, secondary and post-secondary educational facilities offering instruction in the branches of learning and study required to be taught by the Texas Education Agency; and such federally funded educational programs for preschool children as the Head Start Program.

Entertainment. Includes shows, plays, skits, musical revues, children’s theater, dance productions, public dance, musical concerts, opera and the production or provision of sights or sounds or visual or auditory sensations which are designed to or may divert, entertain or otherwise appeal to members of the public who are admitted to a place of entertainment, which is produced by any means, including radio, television, video reproduction, piano, orchestra or band or any other musical instrument, slide or movie projector, spotlights, or interruptible or flashing light devices and decoration.

Exhibition hall. A large civic building or group of buildings designed for conventions, industrial shows, and the like, having large unobstructed exhibit areas and often including conference rooms, hotel accommodations, restaurants, and other facilities.

Exploration and extraction. Searching and removal of minerals by geological, geophysical, geochemical or other techniques including sampling, assaying, drilling, or any surface or underground works needed to determine the type, extent, or quantity of minerals present.

Fair grounds/rodeo grounds or exhibition area. An area or space either outside or within a building for the display of topic-specific goods or information.

Family. One (1) or more persons related by blood, marriage, or adoption; or a group not to exceed four (4) persons not all related by blood or marriage, adoption or guardianship, occupying a dwelling unit.

Family home. A home that provides regular care in the caretaker's own residence for not more than six (6) children under fourteen (14) years of age, excluding children who are related to the caretaker, and that provides care after school hours for not more than six (6) additional

elementary school children, but the total number of children, including children who are related to the caretaker, does not exceed twelve (12) at any given time. The term does not include a home that provides care exclusively for any number of children who are related to the caretaker pursuant to Chapter 42, Texas Human Resources Code.

Fraternal organization, lodge, civic club, or union. An organized group having a restricted membership and specific purpose related to the welfare of the members such as Elks, Masons, Knights of Columbus, or a labor union.

Funeral home. A place for the storage of human bodies prior to their burial or cremation, or a building used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation.

Golf course. An area improved with trees, greens, fairways, hazards, and which may include clubhouses, for the purpose of recreation and sport.

Heavy load vehicle. A self-propelled vehicle having a manufacturer's recommended Gross Vehicle Weight (GVW) of greater than sixteen thousand (16,000) pounds (including trailers). The term "truck" shall be construed to mean "Heavy Load Vehicle" unless specifically stated otherwise.

Heavy manufacturing. A use engaged in the basic processing and manufacturing of materials, or products predominantly from extracted raw materials or a use engaged in the storage of or manufacturing processes using flammable or explosive materials or storage of processes that potentially involve hazardous or commonly recognized offensive conditions.

Heliport. An area of land or water or a structural surface which is used, or intended for use, for the landing and taking off of helicopters, and any appurtenant areas which are used, or intended for use for heliport buildings and other heliport facilities.

Helistop. The same as a heliport, except that no refueling, maintenance, repairs or storage of helicopters is permitted.

Home health service. The provision of one (1) or more of the following health services required by an individual in a residence or independent living environment:

- (a) nursing, including blood pressure monitoring and diabetes treatment;
- (b) physical, occupational, speech, or respiratory therapy;
- (c) medical social service;
- (d) intravenous therapy;
- (e) dialysis;
- (f) service provided by unlicensed personnel under the delegation or supervision of a licensed health professional;
- (g) the furnishing of medical equipment and supplies, excluding drugs and medicines; or
- (h) nutritional counseling.

Home occupation. An occupation carried on in a dwelling unit, or in an accessory building to a dwelling unit, by a resident of the premises, which occupation is clearly incidental and secondary to the use of the premises for residential purposes.

Hospice. A person licensed under Chapter 142, Texas Health and Safety Code, to provide hospice services, including a person who owns or operates a residential unit or an inpatient unit.

Hospice services. Services, including services provided by unlicensed personnel under the delegation of a registered nurse or physical therapist, provided to a client or a client's family as part of a coordinated program consistent with the standards and rules adopted under this Ordinance. These services include palliative care for terminally ill clients and support services for clients and their families that:

- (a) are available twenty-four (24) hours a day, seven (7) days a week, during the last stages of illness, during death, and during bereavement;
- (b) are provided by a medically directed interdisciplinary team; and
- (c) may be provided in a home, nursing home, residential unit, or inpatient unit according to need. These services do not include inpatient care normally provided in a licensed hospital to a terminally ill person who has not elected to be a hospice client.

Hospital. An establishment that offers services, facilities, and beds for use for more than twenty-four (24) hours for two (2) or more unrelated individuals requiring diagnosis, treatment, or care for illness, injury, deformity, abnormality, or pregnancy and that regularly maintains, at a minimum, clinical laboratory services, diagnostic X-ray services, treatment facilities including surgery or obstetrical care or both, and other definitive medical or surgical treatment of similar extent pursuant to Chapter 241, Texas Health and Safety Code.

Hotel. A building containing guest rooms, rented for less than thirty (30) days and designed to be used for sleeping purposes, which provides a common entrance, lobby, halls and stairways.

HUD-code manufactured home. A structure 1) constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development 2) built on a permanent chassis 3) designed for use as a dwelling with or without a permanent foundation when the structure is connected to the required utilities 4) transportable in one or more sections 5) in the traveling mode, is at least eight (8) body feet in width or at least forty (40) body feet in length or, when erected on site, at least three hundred twenty (320) square feet 6) includes the plumbing, heating, air conditioning, and electrical systems of the home, and 7) does not include a recreational vehicle as defined by 24 C.F.R. Section 3282.8(g) pursuant to Chapter 1201, Texas Occupations Code.

Industrial, manufacturing. Establishments engaged in the manufacturing or transformation of materials into new products. These establishments are usually described as plants and factories, and characteristically use power driven machines and materials handling equipment. Manufacturing production is usually carried on for the wholesale market, rather than for direct sale to the domestic consumer.

Industrialized housing. A structure or building module constructed, under the jurisdiction and control of the Texas Department of Labor and Standards and that is installed and used as a residence by a consumer, transportable in one or more sections on a temporary chassis or other

conveyance device, and designed to be used on a permanent foundation system. The term includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. The term does not include a mobile home as defined in the Texas Manufactured Housing Standards Act (Chapter 1201, Texas Occupations Code); nor does it include building modules incorporating concrete or masonry as the primary structural component.

Kiosk. A small stand-alone structure, with one (1) or more open sides, that is used to vend merchandise or services, or for providing information, either by posting, or on a computer screen.

Landscaping. Grass, trees, shrubs, vines, ground cover or flowers planted and maintained to enhance appearance of a development. Landscaping may include non-botanical features, such as walks, fountains, reflecting pools, art works, rain gardens and stormwater management features.

Light load vehicle. A self-propelled vehicle having a manufacturer's recommended gross vehicle weight (GVW) not greater than sixteen thousand (16,000) pounds and having no more than two (2) axles.

Light manufacturing. Manufacturing of finished products or parts, predominantly from previously prepared materials, including fabrication, assembly, and packaging of such products, and incidental storage, sales and distribution of such products, but excluding basic industrial processing.

Lot. A platted (as specified in Chapter 212 of the Texas Local Government Code) parcel of land that is occupied or intended to be occupied by one (1) main building (or a group of main buildings) and any accessory building(s), which includes such parking, landscaping and open space as are required by this Ordinance or other laws and/or ordinances, and also which has its principal frontage upon a public street.

Lot area. The total area, measured on a horizontal plane, included within lot lines.

Lot, corner. A lot which has at least two (2) adjacent sides abutting for their full lengths upon a street, provided that the interior angle at the intersection of such two sides is less than one hundred thirty-five (135) degrees.

Lot depth. The mean horizontal distance between the front and rear lot lines.

Lot, double frontage. A lot having frontage upon two (2) non-intersecting streets, as distinguished from a corner lot.

Lot, flag. A lot having access to a street by means of a parcel of land generally having a depth greater than its frontage, but not less than thirty-five (35) feet. Flag, or panhandle, lots are typically discouraged.

Lot, interior. A lot other than a corner lot.

Lot frontage. That dimension of a lot or portion of a lot abutting onto a street, excluding the side dimension of a corner lot.

Lot lines or property lines. The lines bounding a lot as defined herein.

Lot of record. A lot which is part of a subdivision, the plat of which has been recorded in the office of the County Clerk of Parker County.

Lot width. The horizontal distance measured between side lot lines parallel to the front lot line, and measured from the point on the building line that is closest to the front lot line.

Manufactured housing. Means a HUD-code manufactured home or a mobile home.

Market (public). Markets located on public property, where independent merchants can sell their products to the public. Typical products sold at public markets include fresh produce, various other food items and crafted goods.

Medical service. Including but not limited to hospice, hospice services and home health service.

Micro brewery. A combination retail, wholesale and manufacturing business that brews and serves beer and/or food.

Mini-warehouse/self-storage. Small individual storage units for rent or lease, restricted solely to the storage of items. The conduct of sales, business or any other activity within the individual storage units, other than storage, shall be prohibited.

Mobile home. A structure 1) constructed before June 15, 1976 2) built on a permanent chassis 3) designed for use as a dwelling with or without a permanent foundation when the structure is connected to the required utilities 4) transportable in one or more sections 5) in the traveling mode, is at least eight (8) body feet in width or at least forty (40) body feet in length or, when erected on site, at least three hundred (320) square feet, and 6) includes the plumbing, heating, air conditioning, and electrical systems of the home pursuant to Chapter 1201, Texas Occupations Code.

Mobile home park (also trailer park or RV park). A parcel of land not less than three (3) acres nor greater than thirty-five (35) acres which is designed, improved, or intended to be used for short- or long-term occupancy by mobile homes/trailers and/or recreational vehicles (including travel trailers) in designated spaces. A mobile home park may include a residence for the owner/manager of the premises, utility hook-ups, accessory structures, playgrounds and open space areas, fenced yard areas for pets, and other similar amenities.

Model home. A dwelling in a developing subdivision, located on a legal lot of record, that is limited to temporary use as a sales office for the subdivision and to provide an example of the dwellings which have been built or which are proposed to be built within the same subdivision.

Motel. A facility offering temporary lodging accommodations or guest rooms on a daily rate to the general public and providing additional services, such as restaurants, meeting rooms, housekeeping service and recreational facilities. A guest room shall be defined as a room designed for the overnight lodging of hotel guests for an established rate or fee.

Motor vehicle. Any vehicle designed to carry one (1) or more persons which is propelled or drawn by mechanical power, such as automobiles, vans, trucks, motorcycles and buses.

Motor vehicle rental. A business primarily engaged in the rental of new and used autos, trucks, motorcycles, recreational vehicles, utility trailers, aircraft, snowmobiles, and the like.

Motor vehicle repair. Any person or business which, for compensation, engages in the activity of repairing, replacing, reconditioning, adjusting, analyzing, diagnosing or altering the operational condition of motor vehicles that are owned by other persons.

Motor vehicle sales. A business primarily engaged in the sale of new and used autos, trucks, motorcycles, recreational vehicles, utility trailers, aircraft, snowmobiles, and the like.

Motor vehicle salvage. A business which purchases, salvages and sells used parts from inoperable vehicles.

Motor vehicle service. Businesses primarily engaged in both selling and installing such automotive parts as mufflers and brakes.

Occupancy. The use or intended use of the land or buildings by proprietors or tenants.

Offices. A room or group of rooms used for the provision of executive, management and/or administrative services. Typical uses include administrative offices and services including real estate, insurance, property management, investment, personnel, travel, secretarial services, telephone answering, and business offices of public utilities, organizations and associations, but excluding medical offices.

Off-street parking. Off-street parking spaces provided in accordance with the requirements of this Ordinance, located on the lot or tract occupied by the main use or within one hundred fifty (150) feet of such lot or tract, and located within the same zoning district as the main use or in an adjacent parking district.

Outdoor Recreation. An area designed for active outdoor recreation, whether publicly or privately owned, including, but not limited to, baseball diamonds, soccer and football fields, campgrounds, golf courses, tennis courts and swimming pools.

Parcel. Any unplatted tract of land, or any portion of an unplatted tract of land (also see "Tract").

Park/playground. An area of land set aside for public or private use, as a piece of land with few or no buildings within or adjoining a town, maintained for recreational and ornamental purposes.

Pawn shop. An establishment where money is loaned on the security of personal property pledged in the keeping of the owners (pawnbroker). Retail sales of primarily used (i.e., pre-owned) items is also allowed, provided that the sale of such items complies with local, state and federal regulations.

Plat. A plan showing the subdivision of land, creating building lots or tracts, showing all essential dimensions and other information in compliance with the subdivision standards of the City, and which is approved by the City and recorded in the plat records of Parker County.

Premises. Land together with any buildings or structures situated thereon.

Private club. An establishment providing social and/or dining facilities which may provide alcoholic beverage service, to an association of persons, and otherwise falling within the definition of, and permitted under the provisions of, that portion of Chapter 32, Texas Alcoholic Beverage Code, that pertains to the operation of private clubs.

Professional service. Work performed which is commonly identified as a profession, and which may be licensed by the State of Texas.

Public garage/parking structure. A surface lot, parking structure or other facility owned, operated or maintained by the City, to provide parking to the general public.

Recycling kiosk. A small uninhabited structure (one hundred twenty (120) square feet maximum) or temporary container (e.g., "igloo" or dumpster-type container) which provides a self-service location for the depositing of recyclable materials such as aluminum cans (e.g., "can banks"), glass bottles, magazines/newspapers, metal or plastic containers, etc. Recyclables are picked up periodically from the site. This definition does not include large trailers or manned collection centers.

Restaurant or cafeteria. An eating establishment where customers are primarily served at tables or are self-served, where food is consumed on the premises, which may include a drive-through window(s) or where facilities are provided on the premises which encourage the serving and consumption of food in automobiles on or near the restaurant premises.

Retail. An establishment engaged in the selling of goods and merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

Sand, gravel or stone extraction and/or storage. The process of extracting and/or storing sand, gravel, stone, topsoil, compost or other products from the earth.

School (K through 12). An institution for the instruction of children or people under college age.

School, other. Any institution for the instruction of people not considered a "school (K through 12)".

Seasonal uses. Seasonal uses include the sales of items such as Christmas trees, pumpkins, snow cones, fresh produce, and other items which are typically only available at certain times of the year.

Stable (commercial). A stable used for the rental of stall space or for the sale or rental of livestock.

Story. That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above.

Street. Any dedicated public thoroughfare that affords the principal means of access to abutting property. A street is termed a major thoroughfare or arterial when the right-of-way is greater than sixty (60) feet.

Street intersection. Any street that joins another street at an angle, whether or not it crosses the other.

Taxidermist. An establishment that provides the services of preparing, stuffing, and mounting the skins of dead animals for exhibition in a lifelike state.

Telemarketing agency. An establishment that solicits business or the purchase of goods and/or services by telephone only. No sales of goods or services to the public occurs at or on the premises. No products are stored at or on the premises.

Temporary field office or construction yard or office. A structure or shelter used in connection with a development or building project for housing on the site of temporary administrative and supervisory functions and for sheltering employees and equipment. Temporary permits for one (1) year, or for a specific time and location as determined, may be issued by the Building Official and shall be subject to review and renewal for reasonable cause.

Townhouse. A one-family dwelling unit constructed in a group of three (3) or more attached units separated by property lines in which each unit extends from foundation to roof and with open space on at least two (2) sides.

Tract. A single parcel or lot.

Transfer station. A facility where solid waste materials, including yard waste, demolition materials, and household refuse, are transferred from small vehicles to large trucks for efficient transport to landfills, recycling centers, and other disposal sites.

Use. The purpose for which land or buildings are or may be occupied in a zoning district.

Utilities (public). Any facility or structure which provides services to the general public including but not limited to electric, gas, telephone, water, and television cable systems either publicly or privately owned.

Variance. An adjustment in the application of the specific regulations of the Zoning Ordinance to a particular parcel of property which, because of special conditions or circumstances of hardship peculiar to the particular parcel, is necessary to prevent the property from being deprived of rights and privileges enjoyed by other parcels in the same vicinity and zoning district. Only the Board of Adjustment of the City can grant a variance.

Veterinarian clinic. An establishment where animals are admitted for examination and medical treatment.

Warehouse/Office. A facility which has the combined uses of office and showroom or warehouse for the primary purpose of wholesale trade, display and distribution of products.

Yard. An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except where otherwise specifically provided in this Ordinance that the building or structure may be located in a portion of a yard required for a main building. In measuring a yard for the purpose of determining the width of the side yard, the depth of a front yard or the depth of a rear yard, the shortest horizontal distance between the lot line and the main building shall be used.

Yard, front. A yard located in front of the front elevation of a building and extending across a lot between the side yard lines and being the minimum horizontal distance between the front property line and the outside wall of the main building.

Yard, rear. The area extending across the rear of a lot measured between the lot lines and being the minimum horizontal distance between the rear lot line and the rear of the outside wall of the main building. On both corner lots and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard.

Yard, side. The area between the building and side line of the lot and extending from the front lot line to the rear lot line and being the minimum horizontal distance between a side lot line and the outside wall of the side of the main building.

Zoning district. A classification applied to any certain land area within the City stipulating the limitations and requirements of land use and development.

Chapter 2. Zoning Procedures and Administration

Sec. 12-2-1. Zoning upon annexation.

(a) As soon as practical following annexation of property by the City, the City Manager or property owners of the annexed area, shall initiate proceedings to establish Agricultural ("AG") or another appropriate zoning classification requested by the property owners on the newly annexed territory. Thereupon the City Manager shall commence public notification and other standard procedures for zoning amendments as set forth in this Ordinance. Said proceedings to establish zoning may be undertaken concurrently with annexation procedures (i.e., notified at the same time, public hearings scheduled at the same time as annexation, etc.), however zoning approval and formal adoption of the ordinance establishing zoning must occur after annexation approval and adoption have occurred, and as a separate and distinct action by the City Council.

(b) The initial zoning of a tract, whether it is interim in nature, by initiation of the landowner or by initiation of the city, must meet the requirements for notification and public hearings as set forth in this Ordinance and all other applicable state laws.

(c) The owner of land to be annexed may submit an application for zoning the property simultaneously with submission of the petition for annexation, but no such annexation application may be made conditioned upon the approval of any particular zoning classification.

(d) Within an area classified as "AG" (Agricultural):

(1) No permit for the construction of a building or use of land shall be issued by the Building Official other than a permit which will allow the construction of a building or use permitted in the "AG" district, unless and until such territory has been classified in a zoning district other than the "AG" district by the City Council in the manner prescribed herein.

(2) If plans and preparations for developing a property for a use other than those specified in the "AG" district were already in progress prior to annexation of the property into the City, then the City Council may authorize construction of the project by a majority vote. Application of this subsection is contingent upon the following:

a. An application for a building permit for the proposed building or use must be made to the Building Official within three (3) months after annexation of the property into the City; and

b. The applicant must be able to demonstrate that plans and other preparations for developing the property commenced prior to (i.e., were already in progress at the time of) annexation into the City.

In its deliberations concerning authorization to proceed with construction of a project which meets the above criteria, the City Council shall take into consideration the appropriate land use for the area as shown on the City's Future Land Use Plan. Upon approval by the City Council, the City Manager shall notify the Building Official of such approval.

(3) If the City and the owner of property enter into a development agreement prior to the annexation of the property as provided in Section 212.172, Texas Local Government

Code, then the City Council may authorize construction of a project in accordance with the terms of the development agreement.

Sec. 12-2-2. Nonconforming uses and structures.

(a) *Nonconforming uses.* Where a lawful use of property exists at the effective date of adoption of this Ordinance, or any amendment to this Ordinance, which would not be permitted by the regulations imposed by this Ordinance or amendments to this Ordinance, the use may be continued so long as it remains otherwise lawful, subject to the provisions below:

(1) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.

(2) No such nonconforming use shall be increased or extended to occupy additional buildings nor may such nonconforming use be extended throughout any parts of the building not already occupied unless such parts of the building were manifestly arranged or designed for such nonconforming use and were owned or leased by the operator of the nonconforming use on the effective date of adoption or amendment of this Ordinance.

(3) No such nonconforming use shall be moved in whole or in part to any tract or portion thereof other than that occupied by such use on the effective date of adoption or amendment of this Ordinance.

(4) No additional structure not conforming to the requirements of this Ordinance shall be erected in connection with such nonconforming use.

(b) *Nonconforming structures.* Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yard, site location on the tract, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the provisions below. The provisions in this subsection shall also apply to a structure made nonconforming by governmental action affecting the area, lot coverage, height, yard, site location on the tract, or other requirement concerning structure.

(1) No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.

(2) Should such nonconforming structure or nonconforming portion of structure be destroyed to an extent of more than fifty (50) percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance.

(3) Should such nonconforming structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(c) *Nonconforming uses of structures and land in combination.* Where a lawful use of structures and land in combination exists on the effective date of adoption or amendment of this Ordinance, or any amendments to this Ordinance, that would not be permitted by the

regulations imposed by this Ordinance, or amendments to this Ordinance, the use may be continued so long as it remains otherwise lawful, subject to the provisions below.

(1) No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

(2) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such a building.

(3) If no structural alterations are made, any nonconforming use of a structure and land may as a special exception be changed to another nonconforming use provided that the Board of Adjustment, either by general rule or by making finding in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In approving a special exception for such a change, the Board of Adjustment may require appropriate conditions and safeguards in accordance with the provisions of this Ordinance.

(4) Any structure and land in combination, in which a nonconforming use is replaced by a permitted use, shall thereafter conform to the regulations for the district in which it is located, and the nonconforming use may not thereafter be resumed.

(5) When a nonconforming use of a structure and land in combination is discontinued or abandoned for six (6) consecutive months, they shall not thereafter be used except in conformity with the regulations of the district in which they are located.

(6) Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the legal nonconforming status of the land. "Destruction" for the purpose of this subsection is defined as damage to an extent of more than fifty (50) percent of the replacement cost at the time of destruction.

(d) *Repairs and maintenance.*

(1) On any nonconforming structure or portion of a structure containing a nonconforming use, ordinary repair and maintenance may be done. No structural alterations in excess of fifty (50) percent of the replacement cost of the structure may be performed.

(2) If a nonconforming structure or a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored or rebuilt, except in conformity with the regulations of the district in which it is located.

(3) Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

(e) *Nonconforming lots.* Where an existing legally platted lot exists at the time of adoption of this Ordinance, or any amendments to this Ordinance, which does not meet the minimum size, length, or width regulations imposed by this Ordinance, or amendments to this Ordinance, the lot may be developed, so long as it remains otherwise lawful, subject to the provisions below. The provisions in this subsection shall also apply to a lot made nonconforming by governmental action affecting the lot size, length or width.

- (1) The nonconforming lot must have access to a street as required by this Ordinance.
- (2) Any structure developed on the nonconforming lot shall meet the minimum setbacks, height, and use regulations for the district in which it is located.
- (3) Any variance from the setbacks or height regulations, required in the district in which the nonconforming lot is located, shall be subject to the approval of the Board of Adjustment.

(f) *Discontinuance or abandonment.*

(1) If any nonconforming use of property shall be discontinued or abandoned under the terms and conditions of this subsection, such use shall not be resumed and any subsequent use of the property shall conform to the regulations specified by this Ordinance for the district in which such property is located. The City has determined that discontinuance of a nonconforming use and abandonment of a nonconforming use are separate and distinct acts and the City has established a different standard of review for each act.

a. Abandonment shall be defined as an intent by the owner to permanently close or cease the use, coupled with any act or statement by the owner that manifests such intent. The following conditions, events or conduct shall be presumed to constitute an intent to abandon a nonconforming use:

1. the closure or cessation of the use for a period of 120 consecutive days;
2. in the determination of the Director of Planning and Development, the structure or use is (1) in an advanced stage of dilapidation; (2) is non-compliant with one or more health and safety codes such as the Building, Plumbing, Electrical and Mechanical Codes that govern the use of structures designed for human occupancy; or (3) is otherwise unsafe for the continuation of such use or occupancy.

If any of these conditions, events or conduct exists, then the owner shall bear the burden of proof and production to establish that the owner did not intend to abandon the use.

b. For the purpose of this Section, “discontinuance” shall be defined as a closure or cessation of a use for a period of 180 consecutive days, irrespective of whether the owner has an intent to abandon the use.

When land or a structure that is nonconforming has historically been used only on a seasonal basis, such use shall be deemed to have been discontinued if, irrespective of whether the owner has an intent to abandon the use, either: (1) such use is closed or ceases to operate for a period of 180 consecutive days, or (2)

such property is not operated as a nonconforming use in a bonafide manner during such season.

(2) Upon evidence of hardship, the Board of Adjustment shall have the authority to extend the time limits in this subsection for a period not to exceed one (1) year.

(g) *Additional provisions regarding nonconforming uses.*

(1) No nonconforming accessory use or structure shall continue after the principal use or structure shall have ceased or terminated unless the accessory use or structure shall thereafter conform to the provisions of the zoning district in which it is located.

(2) The foregoing provisions of this Section shall also apply to uses that are allowed to commence or continue under Section 43.002, Texas Local Government Code, and are thereby made nonconforming upon annexation into the city limits.

(3) The foregoing provisions of this Section shall also apply to uses that do not conform to the provisions of this Ordinance but are permitted after the adoption of this Ordinance based on previously adopted regulations applicable to such uses as required by Section 245.002, Texas Local Government Code.

Sec. 12-2-3. Amendments to Zoning Ordinance and districts, administrative procedures, and enforcement.

(a) *Declaration of policy and review criteria.*

(1) The City declares the enactment of these regulations governing the use and development of land, buildings, and structures as a measure necessary to ensure the orderly development of the community. Therefore, no change shall be made in these regulations or in the boundaries of the zoning districts except:

- a. To correct any error in the regulations or map;
- b. To recognize changed or changing conditions or circumstances in a particular locality;
- c. To recognize changes in technology, the style of living, or manner of conducting business; or
- d. To change the property to uses in accordance with the City's adopted comprehensive plan.

(2) In making a determination regarding a requested zoning change, the Planning and Zoning Board and the City Council shall consider the following factors:

- a. Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned, and their relationship to the general area and to the City as a whole;
- b. Whether the proposed change is in accordance with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other utilities to the area;

- c. The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the City, and any special circumstances that may make a substantial part of such vacant land unavailable for development;
- d. The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed change;
- e. How other areas designated for similar development will be, or are likely to be, affected if the proposed amendment is approved; and
- f. Any other factors that will substantially affect the public health, safety, morals, or general welfare.

(b) *Authority to amend Ordinance.*

(1) The City Council may from time to time, after receiving a recommendation thereon by the Planning and Zoning Board and after public hearings required by law, amend, supplement, or change the regulations herein provided or the boundaries of the zoning districts specified on the Zoning Map. Any amendment to the Zoning Ordinance text or to zoning district boundaries may be ordered for consideration by the City Council, may be initiated by the Planning and Zoning Board or the City Manager, or may be requested by the owner of real property (or his/her authorized representative).

(2) No person who owes delinquent taxes, delinquent paving assessments, impact fees, or any other delinquent debts or obligations to the City, and which are directly attributable to a piece of property requested for zoning shall be allowed to submit a zoning request until the taxes, assessments, debts, or obligations directly attributable to said property and owed by the owner or previous owner thereof shall have been first fully discharged by payment, or until an arrangement satisfactory to the City has been made for the payment of such taxes, assessments, debts or obligations. It shall be the applicant's responsibility to provide evidence or proof that all amounts owed have been paid.

(c) *Application.*

(1) Each application for zoning (including a zoning change, zoning amendment, or text amendment to a provision(s) of this Zoning Ordinance), shall be made in writing on an application form available in the offices of Planning and Development. The application shall be delivered to the offices of Planning and Development at least thirty (30) days prior to a regularly scheduled meeting of the Planning and Zoning Board, as set forth by City Council minute order. Supplemental documentation shall be provided as set forth in the application on file in the offices of Planning and Development.

(2) All zoning requests involving real property (including zoning change and zoning amendment requests) shall be accompanied by a notarized statement verifying land ownership and, if applicable, evidence of land owner's agent authority to file the request.

(3) Zoning applications which do not include all required information and materials (as outlined above and per other city development review policies) will be considered incomplete, shall not be accepted for official submission by the City, and shall not be scheduled on a Planning and Zoning Board agenda until the proper information is provided to city staff.

(d) *Notice of Board hearing.*

(1) For zoning requests involving real property (including zoning change and zoning amendment requests), the Planning and Zoning Board shall hold at least one (1) public hearing on each zoning application, as per applicable state law (Chapter 211, Texas Local Government Code). For proposed changes to zoning district boundaries (including rezoning requests), notice of the public hearing to occur before the Planning and Zoning Board shall be accomplished by publishing the purpose, time and place of the public hearing in the official newspaper of the City before the fifteenth (15th) calendar day prior to the date of the public hearing. Written notice of each public hearing shall also be sent to each owner, as indicated by the most recently approved City tax roll, of real property within two hundred (200) feet thereof, said written notice to be sent before the tenth (10th) calendar day prior to the date such hearing is held. Such notice may be served by using the last known address as listed on the most recently approved tax roll and depositing the notice, postage paid, in the United States mail.

(2) For requests involving proposed changes to the text of the Zoning Ordinance, notice of the Planning and Zoning Board hearing shall be accomplished by publishing the purpose, time and place of the public hearing in the official newspaper of the City before the fifteenth (15th) calendar day prior to the date of the public hearing. Changes in the Ordinance text that do not change zoning district boundaries (i.e., which do not involve specific real property) do not require written notification to individual property owners.

(3) The City may, at its option, establish additional rules and procedures for public notification of proposed zoning changes and development proposals (e.g., site plans, plats, etc.) which may include, but not be limited to, the posting of a sign(s) on any property that is proposed for a zoning change or development by the applicant or its agent(s). Knowledge of and adherence to such rules and procedures, if so established by the City, shall be the responsibility of the applicant.

(e) *Failure to appear.* Failure of the applicant to appear before the Planning and Zoning Board or the City Council for more than one (1) hearing without an approved delay by the City Manager shall constitute sufficient grounds for the Planning and Zoning Board or the City Council to table or deny the application unless the City is notified in writing by the applicant at least seventy-two (72) hours prior to the hearing.

(f) *Planning and Zoning Board consideration and recommendation.*

(1) The Planning and Zoning Board shall function in accordance with this Ordinance and with applicable provisions in the City's Code of Ordinances.

(2) The Board shall hold a public hearing on a zoning request (including a zoning change, zoning amendment, and a proposed text amendment to the Zoning Ordinance) as per applicable state law (Chapter 211, Texas Local Government Code).

(g) *City Council consideration.*

(1) Every zoning application which is recommended for approval (or approval with conditions) by the Planning and Zoning Board shall be automatically forwarded (along with the Board's favorable recommendation) to the City Council for setting and holding

of a second public hearing thereon following appropriate public hearing notification as prescribed below.

An application that is recommended by the Planning and Zoning Board for disapproval shall not be forwarded to the City Council unless the applicant files a written appeal with the City Manager within ten (10) calendar days after the Board's decision.

(2) After a public hearing is held before the City Council regarding the zoning application, the City Council shall take action as deemed appropriate.

If the City Council denies the request, then no other zoning application may be filed for all or part of the subject tract of land (or for that portion of the Zoning Ordinance, in the case of a text amendment request submitted by a property owner or citizen) for a waiting period of one (1) year following the denial. In the instance that the request was initiated by the City and involved a proposed amendment to the text of the Zoning Ordinance, then there is no waiting period before the request can be reconsidered.

The City Council may, at its option, waive the 1-year waiting period if, after due consideration of the matter at a scheduled and posted meeting, it is determined that denial of the request was based upon erroneous or omitted information, or if substantial new information pertaining to the request is discovered.

(3) Notice of the City Council public hearing for a zoning request (including a zoning change, zoning amendment or a Zoning Ordinance text amendment) shall be given as per applicable state law (Chapter 211, Texas Local Government Code Chapter 211).

(4) For zoning requests involving real property (including zoning change and zoning amendment requests), a favorable vote of three-fourths (3/4) of all members of the City Council shall be required to approve any change in zoning when written objections are received in accordance with the provisions of Section 211.006 of the Texas Local Government Code (commonly referred to as the "20 percent rule").

(5) The City Council may hold a joint public hearing on a zoning request (including a zoning change, zoning amendment or a Zoning Ordinance text amendment) along with the Planning and Zoning Board, but the City Council shall not take action on the request until it has received a final recommendation from the Board. Notification for the City Council's public hearing may be accomplished simultaneously with the public notification given for the public hearing to be held before the Planning and Zoning Board.

(h) *Schedule of fees, charges and expenses.*

(1) Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any zoning or development application or on any appeal.

(2) The City Council, upon the recommendation of the Planning and Zoning Board, shall determine and adopt a fee schedule for the purpose of recovering a portion of the administrative costs associated with processing zoning and development requests, including public hearings, that are called for in this Ordinance. Such fees shall be paid by the applicant and shall not be designed to in any way restrict the applicant's ability to seek and receive a hearing or to generate revenue for other than recovery of actual

administrative costs incurred by the City in the review and processing of applications. Immediately upon receipt of a complete submission for a zoning change or other development plan approval, the City shall issue a fee receipt and shall create a case file as a permanent City record thereof.

Sec. 12-2-4. Administration and enforcement.

- (a) The Director of Planning and Development shall administer and enforce the provisions of this Ordinance. If the Director of Planning and Development finds upon his/her own personal observation, or upon receipt of a complaint, that the provisions of this Ordinance are being violated, he/she shall immediately investigate and, when necessary, give written notice to the person(s) responsible to cease or correct such violation(s). Notice may be delivered in person or by certified mail to the violator(s) or to any person owning or leasing a property where the violation is occurring.
- (b) The Director of Planning and Development shall be in charge of making interpretations of the provisions of this Ordinance and the applicability of such provisions to any person or property. The decision of the Director of Planning and Development shall be appealable to the Board of Adjustment.
- (c) Whenever any building or construction work is being done contrary to the provisions of this Ordinance, the Director of Planning and Development shall have the authority to order the work stopped by notice in writing served on the property owner or the contractor doing the work or causing such work to be done, and any such person shall forthwith stop such work until authorized in writing by the city to proceed with such work. Failure to immediately stop work as provided herein shall constitute a violation of this Ordinance.

Sec. 12-2-5. Building permits.

No building or other structure shall be erected, moved, added to, or structurally altered without a permit issued by the Building Official. A building permit shall not be issued except in conformity with the provisions of this Ordinance, unless otherwise authorized by the Board of Adjustment in the form of a variance or special exception. A building permit shall not be issued until the property is properly zoned for the intended use, until the property is platted in accordance with the Subdivision Ordinance, nor until all appropriate plans have been approved by the City (including, but not limited to, a final plat, a detailed plot plan, a final site plan, landscaping and facade plans, building structural plans, etc.). Supplemental documentation shall be provided as set forth in the application on file in the offices of Planning and Development.

Chapter 3. Zoning Districts

Sec. 12-3-1. Zoning districts established.

The City is hereby divided into the following base zoning districts. The use, height, area regulations, and other standards shall be as set out in this Chapter. The districts established herein shall be known as:

TABLE INSET:

Abbreviated Designation	Zoning District Name
----------------------------	----------------------

Base Districts

AG	Agricultural
RE	Residential Estate
RL	Residential Lake Lots
R1	One-Family Residential
R2	Two-Family Residential
R3	Multifamily Residential
CBD	Central Business District
C1	Commercial
C2	Commercial/Interstate
I	Industrial

Sec. 12-3-2. AG Agricultural.

(a) In the AG Agricultural district no building or premises shall be used, configured, erected or altered except in conformity with the following use, area and height regulations.

(b) *Permitted uses.*

Accessory dwelling

Accessory structures

Agriculture

Church/Place of worship

Community home

Community service

Family home

Industrialized housing

One-family dwelling

Park/Playground

School (K through 12)

Stables (commercial)

Utilities (public)

(c) *Conditional uses.* (Approval by the Planning and Zoning Board and the City Council is required).

Bed and breakfast/boarding house

Camp grounds

Cemetery/Mausoleum

Communication antennas, support structures and towers

Exploration and extraction of hydrocarbons, sand, gravel, caliche or stone

Fair grounds/rodeo grounds

Funeral home

Heavy manufacturing

Light manufacturing

Manufactured housing

Mini-warehouse/self-storage

Outdoor recreation

Sand/Gravel/Caliche/Stone sales (storage)

Taxidermist

Veterinarian clinic

(d) *Height regulations.* No structure shall exceed:

(1) The greater of three (3) stories or forty-five (45) feet in height for the main building/house.

(2) Forty-five (45) feet for agricultural structures (e.g., barns, silos, water towers, etc.), provided they are no closer than one hundred (100) feet from any residential structure on the premises, and they are set back at least one hundred (100) feet or three (3) times their height (whichever is greater) from any front, side or rear property line.

(e) *Area regulations.*

(1) *Front yard.*

a. In all locations where building lines, setback lines or front yard lines are shown on recorded plats, the minimum setback or front yard shall be as shown on the plat.

b. In all other locations the minimum front yard setback shall be fifty (50) feet.

c. No accessory structures shall be located in front yards.

(2) *Side yard.*

a. In all locations where building lines, or side lines on corner lots, are shown on plats which have been recorded in the office of the recorder of deeds of the county, the minimum side yard shall be as shown on the plat.

- b. In all other locations there shall be a side yard on each side of the structures (interior) of no less than twenty (20) feet in width. There shall be a side yard on the street side of the structure of no less than twenty (20) feet.
 - c. A side yard width shall be provided of no less than twenty (20) feet in width for any structures approved under the "conditional use" subsection of this Section such as schools, libraries, etc.
- (3) *Rear yard.* There shall be a rear yard having a depth of not less than thirty-five (35) feet for the main building and twenty-five (25) feet for rear garage entry.
- (4) *Lot area.*
- a. The lot area shall be no less than forty-three thousand five hundred sixty (43,560) square feet.
 - b. The minimum lot width shall be two hundred (200) feet.
 - c. The minimum lot depth shall be two hundred (200) feet.

Sec. 12-3-3. RE Residential Estate.

(a) In the RE Residential Estate District no building or premises shall be used, configured, erected or altered except in conformity with the following use, area and height regulations.

(b) *Permitted uses.*

Accessory structures

Church/Place of worship

Community home

Community service

Family home

Industrialized housing

One-family dwelling

Park/Playground

School (K through 12)

Utilities (public)

(c) *Conditional uses.* (Approval by the Planning and Zoning Board and the City Council is required).

Accessory dwelling

Agriculture

Bed and breakfast/boarding house

Cemetery/Mausoleum

Communication antennas, support structures and towers

Funeral home

Outdoor recreation

Stables (commercial)

(d) *Height regulations.* No structure shall exceed:

- (1) The greater of three (3) stories or forty-five (45) feet in height for the main building/house.
- (2) Forty-five (45) feet for agricultural structures (e.g., barns, silos, water towers, etc.), provided they are no closer than one hundred (100) feet from any residential structure on the premises, and they are set back at least one hundred (100) feet or three (3) times their height (whichever is greater) from any front, side or rear property line.

(e) *Area regulations.*

(1) *Front yard.*

- a. In all locations where building lines, setback lines or front yard lines are shown on recorded plats, the minimum setback or front yard shall be as shown on the plat.
- b. In all other locations the minimum front yard setback shall be twenty-five (25) feet.
- c. No accessory structures shall be located in front yards.

(2) *Side yard.*

- a. In all locations where building lines, or side lines on corner lots, are shown on recorded plats, the minimum setback or front yard shall be as shown on the plat.
- b. In all other locations there shall be a side yard on each side of the structures (interior) of no less than eight (8) feet in width.
- c. There shall be a side yard on the street side of the structure of no less than fifteen (15) feet.

(3) *Rear yard.* There shall be a rear yard having a depth of not less than twenty (20) feet for the main building.

(4) *Lot area.*

- a. The lot area shall be no less than eleven thousand (11,000) square feet.
- b. The minimum lot width shall be eighty (80) feet.
- c. The minimum lot depth shall be one hundred twenty (120) feet.

Sec. 12-3-4. RL Residential Lake Lots.

(a) In the RL Residential Lake Lot District no building or premises shall be used, configured, erected or altered except in conformity with the following use, area and height regulations.

(b) *Permitted uses.*

Accessory structures
Church/Place of worship
Community home
Community service
Family home
Industrialized housing
One-family dwelling
Park/Playground
School (K through 12)
Utilities (public)

(c) *Conditional uses.* (Approval by the Planning and Zoning Board and the City Council is required).

Accessory dwelling
Agriculture
Bed and breakfast/boarding house
Communication antennas, support structures and towers
Outdoor recreation

(d) *Height regulations.* No structure shall exceed the greater of two (2) stories or thirty-five (35) feet in height for the main building/house.

(e) *Area regulations.* For the purposes of this Section, it shall be generally understood that the area leased from the City shall be all that area extending from full pool elevation of eight hundred ninety-six (896) feet to the edge of pavement.

(1) *Front yard.* On all lake lots, the front yard shall be that area adjacent to the shoreline. There shall be a front yard having a depth of not less than twenty-five (25) feet for the main building as measured from the full pool elevation of eight hundred ninety-six (896) feet.

(2) *Side yard.*

a. There shall be a side yard on each side of the structures of no less than five (5) feet in width.

b. Side lines shall extend from the full pool elevation of eight hundred ninety-six (896) feet to the edge of pavement of the adjoining right-of-way.

(3) *Rear yard.*

The minimum rear yard setback shall be thirty-five (35) feet as measured from the centerline of the adjoining right-of-way.

(4) *Lot area.*

- a. The minimum lot area – none specified.
- b. The minimum lot width – none specified.
- c. The minimum lot depth – none specified.

Sec. 12-3-5. R1 One-Family Residential.

(a) In the R1 One-Family Residential District no building or premises shall be used, configured, erected or altered except in conformity with the following use, area and height regulations.

(b) *Permitted uses.*

Accessory structures

Church/Place of worship

Community home

Community service

Family home

Industrialized housing

One-family dwelling

Park/Playground

School (K through 12)

Utilities (public)

(c) *Conditional uses.* (Approval by the Planning and Zoning Board and the City Council is required).

Agriculture

Bed and breakfast/boarding house

Cemetery/Mausoleum

Communication antennas, support structures and towers

Outdoor recreation

(d) *Height regulations.* No structure shall exceed the greater of two (2) stories or thirty-five (35) feet in height for the main building/house.

(e) *Area regulations.*

(1) *Front yard.*

- a. In all locations where building lines, setback lines or front yard lines are shown on recorded plats, the minimum setback or front yard shall be as shown on the plat.
- b. In all other locations the minimum front yard setback shall be twenty (20) feet.
- c. No accessory structures shall be located in front yards.

(2) *Side yard.*

- a. In all locations where building lines, or side lines on corner lots, are shown on recorded plats, the minimum side yard shall be as shown on the plat.
- b. In all other locations there shall be a side yard on each side of the structures (interior) of no less than five (5) feet in width.
- c. The minimum side yard setback to a street shall be fifteen (15) feet.

(3) *Rear yard.* There shall be a rear yard having a depth of not less than fifteen (15) feet for the main building.

(4) *Lot area.*

- a. The lot area shall be no less than six thousand five hundred (6,500) square feet.
- b. The minimum lot width shall be fifty (50) feet.
- c. The minimum lot depth shall be one hundred ten (110) feet.

Sec. 12-3-6. R2 Two-Family Residential.

(a) In the R2 Two-Family Residential District no building or premises shall be used, configured, erected or altered except in conformity with the following use, area and height regulations.

(b) *Permitted uses.*

Any use by right listed in the R1 One-Family Residential zoning district

Multiple single-family dwelling

Two-family dwelling

(c) *Conditional uses.* (Approval by the Planning and Zoning Board and the City Council is required).

Accessory dwelling

Agriculture

Bed and breakfast/boarding house

Cemetery/Mausoleum

Communication antennas, support structures and towers

Outdoor recreation

(d) *Height regulations.*

(1) One-family detached. No structure shall exceed the greater of two (2) stories or thirty-five (35) feet in height for the main building/house.

(2) One-family attached. No structure shall exceed the greater of three (3) stories or forty-five (45) feet in height for the main building/house.

(e) *Area regulations.*

(1) *Front yard.*

- a. In all locations where building lines, setback lines or front yard lines are shown on recorded plats, the minimum setback or front yard shall be as shown on the plat.
- b. In all other locations the minimum front yard setback shall be twenty-five (25) feet.
- c. No accessory structures shall be located in front yards.

(2) *Side yard.*

- a. In all locations where building lines, or side lines on corner lots, are shown on recorded plats, the minimum side yard shall be as shown on the plat.
- b. In all other locations there shall be a side yard on each side of the structures of no less than five (5) feet in width. Except,
 1. *Zero lot line patio home.* There shall be a minimum interior side yard on one side of the structure(s) of no less than ten (10) feet in width. The adjacent side shall have a side yard of zero (0) feet.
 2. *Townhouse.* There shall be a side yard of zero (0) feet in width where the units join.
- c. The minimum side yard setback to a street shall be fifteen (15) feet.

(3) *Rear yard.* There shall be a rear yard having a depth of not less than twenty-five (25) feet for the main building.

(4) *Lot area.*

a. *One-family detached lots.*

1. The lot area shall be no less than eight thousand four hundred (8,400) square feet.
2. The minimum lot width shall be seventy (70) feet.
3. The minimum lot depth shall be one hundred ten (110) feet.

b. *One-family attached lots.*

1. The lot area shall be no less than four thousand two hundred (4,200) square feet.
2. The minimum lot width shall be thirty-five (35) feet.
3. The minimum lot depth shall be one hundred ten (110) feet.

c. *Two-family lots.*

1. The lot area shall be no less than eight thousand four hundred (8,400) square feet for each two-family lot (four thousand two hundred [4,200] square feet minimum for each dwelling unit).
2. The minimum lot width shall be seventy (70) feet for each two-family lot (thirty-five (35) feet minimum for each dwelling unit).

3. The minimum lot depth shall be one hundred ten (110) feet.

Sec. 12-3-7. R3 Multifamily Residential.

(a) In the R3 Multifamily Residential District no building or premises shall be used, configured, erected or altered except in conformity with the following use, area and height regulations.

(b) *Permitted uses.*

Any use by right listed in the R2 Two-Family Dwelling district

Bed and breakfast/boarding house

Multifamily dwelling

(c) *Conditional uses.*

Accessory dwelling

Agriculture

Assisted living facility

Cemetery/Mausoleum

Child care facility

Civic clubs, halls and lodges

Communication antennas, support structures and towers

Convalescent/Nursing home

Medical service

Outdoor recreation

(d) *Height regulations.* No structure shall exceed the greater of three (3) stories or forty-five (45) feet in height for the main building/house.

(e) *Area regulations.*

(1) *Front yard.*

a. In all locations where building lines, setback lines or front yard lines are shown on recorded plats, the minimum setback or front yard shall be as shown on the plat.

b. In all other locations the minimum front yard setback shall be twenty-five (25) feet.

c. No accessory structures shall be located in front yards.

(2) *Side yard.*

a. In all locations where building lines, or side lines on corner lots, are shown on recorded plats, the minimum side yard shall be as shown on the plat.

b. In all other locations there shall be a side yard on each side of the structures (interior) of no less than ten (10) feet in width.

- c. There shall be a side yard on the street side of the structure of no less than twenty (20) feet.
- (3) *Rear yard.* There shall be a rear yard having a depth of not less than fifteen (15) feet for the main building.
- (4) *Lot area.*
 - a. The lot area shall be no less than eleven thousand (11,000) square feet.
 - b. The minimum lot width shall be seventy (70) feet.
 - c. The minimum lot depth shall be one hundred ten (110) feet.
 - d. The maximum density shall be twenty-four (24) units per acre.

Sec. 26. Historic overlay district.

26.1 General purpose and description.

- A. This section establishes the procedure to request and designate a Historic Overlay (HD) district zoning classification. The HD zoning classification, through separate ordinance will provide design criteria for the redevelopment, revitalization and preservation of specific sites, neighborhoods and commercial areas.
- B. A historic overlay district is a district that recognizes the city's desire to promote and protect the health, safety, economic, cultural, educational, and general welfare of the public through the protection, enhancement, and perpetuation of one or more districts of historical, archeological and cultural importance and significance.
- C. The city council may designate sites, buildings, structures, landscapes and objects as historic overlay districts along with the public rights-of-way in and surrounding them and define, amend and delineate the boundaries thereof, by adopting zoning overlay districts.
- D. The purposes of historic overlay district designation are to:
 - 1. Protect and enhance the districts which represent distinctive elements of the city's historic, architectural, archeological and cultural heritage;
 - 2. Strengthen and foster civic pride in the accomplishments of the past through neighborhood conservation;
 - 3. Protect and enhance the city's attractiveness to visitors and the support and stimulus to the economy thereby provided;
 - 4. Ensure the harmonious, orderly, and efficient growth and development of the city;
 - 5. Stabilize and promote the economy of the city through the continued use, preservation, and revitalization of its resources; and
 - 6. Strengthen civic pride and cultural stability through neighborhood conservation.

D. Separate ordinances are required to designate each historic overlay district. Ordinances designating each district shall identify the designated boundaries, applicable designation criteria, and design standards for that district.

E. Nothing contained in this section or in the designation of property as being in a historic overlay district shall affect the present legal use of property. Use classifications as to all property which may be included in a historic overlay district shall continue to be governed by the general zoning ordinance and the procedures therein established. In no case, however, shall any use be permitted which requires the demolition, razing, remodeling, or alteration of any buildings or structures in such a historic overlay district so as to adversely affect the character of the historic overlay district, except upon compliance with the terms of this section.

F. A historic overlay district is a zoning overlay which supplements the primary underlying zoning district classification. A historic overlay district is subject to the regulations of the underlying zoning district, except the ordinance establishing the historic overlay district may permit additional uses and provide additional regulations for the historic overlay district.

G. If there is a conflict between the regulations in a historic overlay district ordinance and the regulations of the underlying zoning district, the regulations contained in the historic overlay district ordinance control. If there is a conflict between the regulations contained in a historic overlay district ordinance and these regulations, the regulations contained in the historic overlay district ordinance control.

26.2 Definitions. Unless specifically noted otherwise, the following definitions are standard throughout this section:

Alteration. Shall mean any exterior change, demolition or modification to a property located within a historic overlay district, including but not limited to:

1. Exterior changes to or modifications of structures, architectural details or visual characteristics;
2. Construction of new structures;
3. Disturbance of archeological sites or areas; or
4. Placement or removal of exterior objects that affect the exterior qualities of the property.

Applicant. The owner of record of a property within an existing or proposed historic overlay district, the agent or lessee thereof with the approval of the owner of record in a notarized form or a person holding a bona fide contract to purchase the property with approval of the property owner.

Archeological resource. Archeological or paleontological value in that it has produced or can be expected to produce data affecting theories of historic or prehistoric interest.

Architectural feature. The architectural elements embodying style, design, general arrangement and components of the exterior of any building or structure, including, but

not limited to, the kind, color, texture of the building materials, and the style and type of all windows, doors, lights, signs, and porches.

Building. A structure for business or residential use, created to shelter people or things, such as a house, barn, church, hotel, warehouse or similar structure, including a historically related complex, such as a courthouse and jail or a house and barn. When separated by dividing walls without openings, each portion of such structure so separated shall be deemed a separate building.

Certificate of appropriateness. The certificate issued by the city approving alteration, rehabilitation, construction, reconstruction, or improvement of a historic structure, historic or archeological site, or in a historic overlay district.

Certified local government. A federal government program authorized by the National Historic Preservation Act, 16 U.S.C. 470 et seq., that provides for the participation of local governments in a federal/state/local government partnership.

City. The City of Weatherford, Texas as represented by the mayor and city council.

Commission. The historic preservation commission created under this section.

Construction. The addition or placement of any improvement to a property within an existing or proposed historic overlay district.

Contributing. A building, structure, site, feature or object within a designated historic overlay district that embodies the significant physical features and characteristics or adds to the historical association, historical architectural qualities or archeological values identified for the historic overlay district and was present during the period of significance relating to the documented significance of the property, and possesses historic integrity or is capable of yielding important information about the period.

Dangerous structure. The structure poses an imminent threat to public health or safety.

Demolition. The complete or partial removal of a building, structure, object, or site, including landscape features and archeological sites.

Demolition by neglect. Improper maintenance, neglect in the maintenance of or lack of maintenance of any structure or property subject to designation or in a historic overlay district that results in deterioration of the structure and threatens the preservation of the structure.

Design guidelines. The city "Guidelines for Historic Preservation Resources" adopted by the city council and as may be amended from time to time.

Designation. The process by which the city council may designate certain buildings, land, areas, and districts in the city as historic overlay districts and define, amend and delineate the boundaries thereof.

Economic hardship. The inability of an owner to obtain a reasonable return or a reasonable beneficial use from a property within a historic overlay district as required by the United States Supreme Court in Penn Central Transportation Company v. New York City, 438 U.S. 104 (1978) and subsequent decisions. A reasonable economic return does

not have to be the most profitable return possible or allow the highest and best use of the property.

Historic overlay district. A district approved by the city council through an ordinance which contains a geographically definable area, urban or rural, possessing particular architectural, cultural, or historic importance or significance. A historic overlay district may include one or more properties.

Historic preservation officer. The director of planning and development or his/her designee who shall serve as the historic preservation officer for the city and who shall oversee the historic preservation program for the city.

Historic preservation resource. A building, structure, or object, and its historically associated land or other appropriate setting, approved by the city council through an ordinance, which possesses particular architectural, cultural, or historic significance.

Historic preservation site. An unimproved or improved parcel of ground approved by the city council through an ordinance, which possesses particular archeological, architectural, geological, or historic significance. A historic preservation site differs from a historic preservation resource in that the physical location, not the building, structure, or objects, possesses primary significance. For the purposes of this section, a historic preservation site encompasses prehistoric or historic sites on unimproved or improved land.

Improvement. Means any building, structure, place or other object constituting a physical betterment of real property, or any part of such betterment, including but not limited to streets, alleys, curbs, lighting fixtures, signs and the like.

Initiated designation. The historic designation procedure is considered to be initiated immediately when the city council, the planning and zoning board, or the historic preservation commission votes to initiate it or, in the case of initiation by the property owner(s), when the designation report is filed with the director of planning and development.

Landscape. Any improvement or vegetation including but not limited to: shrubbery, trees, plantings, outbuildings, walls, courtyards, fences, swimming pools, planters, gates, street furniture, exterior lighting, and site improvements, including but not limited to, subsurface alterations, site regarding, fill deposition, and paving.

Low-income homeowner. Any homeowner that meets the HUD qualifications for low income.

National Historic Landmark. A district, site, building, structure, and/or object that has been formally designated as a National Historic Landmark by the U.S. Secretary of the Interior and possesses exceptional value or quality in illustrating or interpreting the heritage of the United States in history, architecture, archeology, engineering, and culture and that possesses a high degree of integrity of location, design, setting, materials, workmanship, feeling, and association. National Historic Landmarks are automatically listed in the National Register.

National Register of Historic Places. A federal list of cultural resources worthy of preservation, authorized under the National Historic Preservation Act of 1966 as part of a

national program to coordinate and support public and private efforts to identify, evaluate, and protect the nation's historic and archeological resources. The National Register Program is administered by the commission, by the state historic preservation office, and by the National Park Service under the Department of the Interior. Significant federal benefits may accrue to owners of properties listed or determined eligible for listing in the National Register.

Noncontributing building, site, structure, or object. Does not add to the historic associations, historic architectural qualities, or archeological values for which a property is significant because: it was not present during the period of significance; it does not relate to the documented significance of the property; and/or due to alterations, disturbances, additions, or other changes, it no longer possesses historic integrity and/or is capable of yielding important information about the period.

Object. A material thing of functional, cultural, historical, or scientific value that may be, by nature or design, movable, yet related to a specific setting or environment.

Ordinary repair or maintenance. Ordinary maintenance shall be defined as any work that does not constitute a change in design, material, or outward appearance, and include in-kind (same original material) replacement or repair.

Relocation. Any changes in the location of a building, object, or structure in its present setting or to another setting.

Secretary of the Interior's Standards for the Treatment of Historic Properties. A federal document stating standards and guidelines for the appropriate rehabilitation, preservation, restoration, and reconstruction of historic buildings.

Site. The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical or archeological value regardless of the value of any existing buildings, or objects.

Structure. A work made up of interdependent and interrelated parts in a definite pattern of organization constructed by man. The term includes, but is not limited to engineering projects, earthworks, and bridges.

26.3 Historic preservation commission.

A. Membership.

1. The historic preservation commission shall consist of seven members appointed by a majority vote of the city council.
2. The city council shall appoint members from the following categories when reasonably available:
 - a. Architect, planner or design professional;
 - b. Historian;
 - c. Contractor;
 - d. Licensed real estate broker/appraiser;

- e. Attorney at law;
- f. Owner of or resident or tenant in a property in a historic overlay district;
- g. Member of the local historical or preservation organization;
- h. Archeologist or a related discipline; or
- i. Other specific background as desired.

3. A member of the planning and zoning board shall be appointed by the city council to serve as a nonvoting liaison to the historic preservation commission.

4. The city council or a designee shall appoint a qualified staff person to serve as historic preservation officer (HPO). This officer shall administer this section and advise the historic preservation commission on matters submitted to it. In addition to serving as representative of the commission, the HPO is responsible for coordinating the city's preservation activities with those of state and federal agencies and with local, state, and national nonprofit preservation organizations.

B. *Membership terms and rules.*

1. Historic preservation commission members shall serve for a term of two years, their terms to be staggered, with the exception that for the inaugural commission, the city council shall appoint two of the voting members for two years, two of the voting members for one year and three members for three years.

2. The nonvoting liaison members may be appointed for either annual or nonrotating terms at the discretion of the city council.

3. The historic preservation commission shall make recommendations to the city council for the appointment and reappointment of members. No member shall be recommended for reappointment after having served two consecutive full terms until after a one-year absence from serving. Any existing member shall serve until his or her successor has been appointed and qualified. The term "qualified" as used herein shall mean that such board members have been verified by the city secretary's office as having residency in the city and attendance at a meeting after appointment.

4. Appointed members wishing to resign their appointed post shall give at least 30 days' written notice to the historic preservation officer stating the effective resignation date. Any vacancy on the commission shall be filled by the city council for the remainder of the unexpired term.

5. Unless excused by the chair of the commission, if a member of the historic preservation commission fails to attend three consecutive meetings or fails to attend 50 percent or more of the regular meetings during a calendar year, the city council may declare such member's seat vacant and appoint a new member to serve the balance of the unexpired term.

C. *Rules and procedures.*

1. The chair and vice-chair of the historic preservation commission shall be elected annually by and from members of the commission. They shall serve a term of one year or until their successors are elected, whichever is longer.
2. The historic preservation commission shall establish its own regular meeting time, the first meeting shall be held within 30 days of the initial appointment of the commission by the city council.
3. The historic preservation commission shall meet at least monthly, if business is at hand, or more frequently if so required to conduct business. Special meetings may be called at any time by the chair, vice chair, or director of planning and development. All meetings shall be in conformance with chapter 551, "Open Meetings Act," of the Texas Government Code. A quorum shall consist of four members. A majority of voting members present will constitute an official vote for the mechanics of the historic preservation commission, but a minimum of four affirmative votes will be required to grant a certificate of appropriateness or certificate of demolition or removal.
4. The historic preservation commission shall develop and adopt rules of procedure which shall govern the conduct of its business, subject to the approval of the city council. Such rules of procedure shall be a matter of public record.
5. The historic preservation commission shall keep minutes and records of all meetings and procedures including voting records, resolutions, attendance, findings, determinations and decisions. All material shall be a matter of public record to be kept in the city secretary's office of the city.
6. The historic preservation commission shall develop design review guidelines for determining appropriateness as generally set forth in subsection 26.6. Such criteria shall insofar as possible be consistent with local, state, and federal guidelines and regulations, including, but not limited to, building safety and fire codes and the U.S. Secretary of the Interior's Standards for the Treatment of Historic Properties.
7. Any member of the historic preservation commission having a conflict of interests as provided in chapter 171 of the Texas Local Government Code shall not be eligible to vote and shall be required to complete and file such documentation with the city secretary for each and every conflicting item.

D. Powers and duties of the historic preservation commission.

The historic preservation commission has the following powers and duties:

1. Adopt rules and procedures, subject to the approval of the city council;
2. Familiarize itself thoroughly with the structures, land, areas, and districts within the city that may be eligible for designation as historic overlay districts;
3. Establish criteria, standards and procedures for designation of historic overlay districts;
4. Recommend designation of historic overlay districts;

5. Develop a preservation plan, update the plan annually, and present the plan to the planning and zoning board and the city council. The preservation plan shall include:
 - a. Identification of places and areas of historical, cultural, architectural, or archeological value along with factual verification of their importance and significance;
 - b. Suggested program for private and public action to promote the preservation of historic structures and districts;
 - c. Identification of sources of funds, including federal, state, and local governments, corporations and private foundations, for preservation and restoration activities and for acquisitions;
6. Conduct and administer historic resource surveys;
7. Prepare and promote design guidelines for historic overlay districts;
8. Develop and adopt guidelines and review procedures to be used in determining whether to grant or deny initiated designation certificates of appropriateness, certificates of appropriateness, or certificates for demolition or removal;
9. Recommend tax or other financial incentives to encourage preservation of historic resources;
10. Recommend to the city council that certain places and areas which cannot be preserved without acquisition, be acquired in fee simple or in some lesser degree by gift or purchase;
11. Recommend acceptance or rejection of donations of preservation easements;
12. Recommend changes in use where conditions exist under which the required preservation of a property subject to the initiated designation or a historic structure would cause undue hardship to the owner of the property;
13. Review applications and grant or deny certificates of appropriateness for proposed work and design on a property subject to the initiated designation or a historic structure;
14. Review applications and grant or deny certificates of demolition or removal of a structure on a property subject to the initiated designation or a historic structure;
15. Initiate, when appropriate, the procedure for adopting an ordinance to establish or amend a historic overlay district or remove a district;
16. Establish committees and task forces as needed to make recommendations to the historic preservation commission on applications for certificates of appropriateness, certificates of demolition or removal, and other issues;
17. Identify cases of demolition by neglect and initiate remedial actions;

18. Develop public outreach/education/awareness programs;
19. Review and make recommendations on zoning amendments and comprehensive plans relating to historic preservation;
20. Review and make recommendations on the decisions and documents (including any environmental assessments, reports, and/or environmental impact statements) of other public agencies when such decisions or documents may affect historical overlay districts or potential historical overlay districts in the city; and
21. Perform other duties as may be assigned by the city council or created by state law, the city's charter, or an ordinance.

26.4 *Historic overlay district criteria.*

A. *Characteristics.* A historic overlay district may be established on one or more properties to preserve places and areas of historical, cultural, or architectural importance and significance if the place or area has one or more of the following characteristics:

1. *History, heritage and culture.* Represents the historical development, ethnic heritage or cultural characteristics of the city, state, or country.
2. *Historic event.* Location as or association with the site of a significant historic event.
3. *Significant persons.* Identification with a person or persons who significantly contributed to the culture and development of the city, state, or country.
4. *Architecture.* Embodiment of distinguishing characteristics of an architectural style, landscape design, method of construction, exceptional craftsmanship, architectural innovation, or contains details which represent folk or ethnic art.
5. *Architect or master builder.* Represents the work of an architect, designer or master builder whose individual work has influenced the development of the city, state or country.
6. *Historic context.* Relationship to other distinctive buildings, sites, or areas which are eligible for preservation based on historic, cultural, or architectural characteristics.
7. *Unique visual feature.* Unique location of singular physical characteristics representing an established and familiar visual feature of a neighborhood, community or the city that is a source of pride or cultural significance.
8. *Archeological.* Archeological or paleontological value in that it has produced or can be expected to produce data affecting theories of historic or prehistoric interest.
9. *National and state recognition.* Eligible for or designated as a National Historic Landmark, recorded state historic landmark, state archeological

landmark, American Civil Engineering Landmark, or eligible for inclusion in the National Register of Historic Places.

10. *Historic education.* Represents an era of architectural, social or economic history that allows an understanding of how the place or area was used by past generations.

26.5 *Historic overlay district designation.*

A. *Multi-property district initiation.* The procedure for adopting an ordinance to establish or amend a multi-property historic overlay district may be initiated by the:

1. Owner(s) of the property;
2. Historic preservation commission;
3. Planning and zoning board; or
4. City council.
5. Requests for a multi-property historic overlay district designation or amendments must have the concurrence of 100 percent of the owners located within the boundaries of the proposed multi-property historic overlay district.
6. At any time after voluntary designation, property owners may choose to opt out of the historical district overlay. This process will require administrative change to the original designation ordinance.

B. *Single property district initiation.* The procedure for adopting an ordinance to establish or amend a single property historic overlay district may be initiated by the:

1. Owner(s) of the property;
2. Historic preservation commission;
3. Planning and zoning board; or
4. City council.
5. Requests for a single property historic overlay district designation or amendment must have the concurrence of the owner located within the boundaries of the proposed single property historic overlay district.
6. At any time after voluntary designation, property owners may choose to opt out of the historical district overlay. This process will require administrative change to the original designation ordinance.

C. *Single property district initiation.* High priority resources.

1. In circumstances when the future of a high priority single property site, as designated by the adopted historic resources survey, becomes threatened, the city council may initiate historic district designation without full consent of the owner of the property.
2. Within 30 days of such initiation, city council must hold a public hearing and determine if the designation is to be continued or withdrawn.

3. If city council withdraws the original designation, the property is no longer affected by the initiation of designation.
4. If city council determines to proceed with the designation, the property will be subject to the public hearing procedure stated below.

D. *Initiation of designation.*

1. The historic designation procedure is considered to be initiated immediately when the city council, planning and zoning board, or historic preservation commission votes to initiate it or, in the case of initiation by the property owner(s), when the completed designation report is filed with the planning and development department.
2. Upon initiation of the historic designation procedure, the historic preservation officer shall immediately notify the building official. The building official shall not accept any application for a permit to alter, demolish, or remove any structure or site subject to the initiated designation, unless a certificate of appropriateness or certificate for demolition or removal has been issued.

E. *Designation report.* Requests by property owners shall be made on a designation report obtained from the planning and development department. The information shall include but not be limited to:

1. A statement of the historical, cultural, and architectural significance of the place or area proposed for historic designation, including the criteria in subsection 26.4, 1--10 upon which the designation is based.
2. A description, photographs and map of the boundaries of the proposed historic overlay district.
3. Completed designation reports shall be returned to the planning and development department for processing. For purposes of this section the historic preservation officer is the administrative official with original jurisdiction to review an application for completeness.

F. *Public hearing procedure.* These provisions pertaining to the designation of historic overlay districts constitute a part of the comprehensive zoning plan of the city. Application and notification procedures shall coincide with the city zoning ordinance, title XII, section 10 and applicable state laws. Owners of properties within a proposed historic overlay district shall be notified in accordance with those notification procedures at least ten days prior to the commission hearing on the recommended designation.

At all public hearings, owners, interested parties, and technical experts may present testimony or documentary evidence which will become part of a record regarding the historic, architectural, or cultural importance of the proposed historic overlay district.

1. *Historic preservation commission.* The historic preservation commission shall give notice and conduct its hearing on the proposed designation within 30 days of receipt of such recommendation for designation. The commission shall recommend approval in whole or in part or disapproval of the application for

designation in writing to the planning and zoning board, setting forth the reasons for the decision. Upon recommendation of the historic preservation commission, the proposed historic overlay district shall be submitted to the planning and zoning board.

2. *Planning and zoning board.* The planning and zoning board shall give notice and conduct its hearing on the proposed designation within 30 days of receipt of such recommendation from the historic preservation commission. Upon recommendation of the planning and zoning board, the proposed historic overlay district shall be submitted to the city council.

3. *City council.* City council shall give notice and conduct its hearing on the proposed designation within 30 days of receipt of the recommendation of the planning and zoning board. Upon designation of a building, object, site, or structure as a historic overlay district, the city council shall cause the designation to be recorded in the county official public records of real property, the city tax records, and the county appraisal district as well as the official zoning maps of the city. All zoning maps should indicate the designated historic overlay districts with an appropriate mark.

26.6 *Certificate of appropriateness and certificate for demolition or removal.*

A. *General rules.*

1. Prior to the commencement of any work or repairs in a historic overlay district, the property owner shall consult the historic preservation officer to determine the necessary requirements for the proposed work.

2. Unless a certificate of appropriateness or a certificate of demolition has been approved by the city in accordance with this subsection and the regulations and design guidelines contained in a historic overlay district ordinance, no person or entity shall construct, reconstruct, alter, change, expand, remove, demolish or fail to maintain, any building, object, site, landscape, architectural feature, or group of such within a historic overlay district.

3. No building permit shall be issued for such proposed work until a certificate of appropriateness or a certificate of demolition has first been issued in accordance with this section. The certificate of appropriateness or certificate of demolition shall be in addition to and not in lieu of any building permit that may otherwise be required.

4. A person who violates this subsection is guilty of a separate offense for each day or portion of a day during which the violation is continued, from the first day the unlawful act was committed until either a certificate of appropriateness or a certificate of demolition is obtained or the property is restored to the condition it was in immediately prior to the violation.

B. *Certificate of appropriateness application.*

1. Prior to the commencement of any work requiring a certificate of appropriateness, the property owner shall file an application for such a certificate with the historic preservation officer.
2. The historic preservation officer, if requested, shall aid the property owner in preparation and completion of the application. One copy of a completed application for certificate of appropriateness or application for certificate of demolition or removal form is required. Applications must be typewritten or printed in ink in legible form. No application shall be deemed to be filed until it is made on forms promulgated by the director and contains all required supporting plans, designs, photographs, reports, and other exhibits required.
3. The application form and supporting information shall contain the following:
 - a. Name, address, telephone number of the applicant, and a detailed description of the proposed work;
 - b. Location and photographs of the property, adjacent properties, and historical photographs, if any, should be included;
 - c. Drawings and/or descriptions of the proposed changes;
 - d. Architectural design of buildings, modification, addition, or new construction (floor plan(s) and elevations) where applicable;
 - e. Construction details for roof, walls, floor, and foundation where applicable;
 - f. Site plan, if modifications are being requested;
 - g. Landscaped planted areas and surface materials, where applicable;
 - h. Fences and locations, where applicable;
 - i. Samples of materials to be used; include samples and information on any materials to be used that differ from existing or original materials;
 - j. Location, type, and arrangement of windows, doors, and other openings where applicable; include sample of each type of window or door from brochure, catalog or manufacturer;
 - k. If the proposal includes signs, a scale drawing illustrating the type of lettering to be used, all dimensions, colors, construction materials, method of illumination, and a plan showing the sign's location on the property;
 - l. Any other reasonable information that the historic preservation officer or historic preservation commission may deem necessary in order to visualize the proposed work.

C. *Minor in-kind repair procedure.*

1. If the historic preservation officer determines that the applicant is seeking a certificate of appropriateness to authorize only minor in-kind repairs, a certificate of appropriateness is not required.

2. The local design guidelines shall be consulted when performing minor in-kind repairs. The historic preservation officer is also available as an additional resource and should be consulted concerning questions about in-kind repairs. If the historic preservation officer deems a certificate of appropriateness necessary, the standard rules for its procedures shall apply.

3. Minor in-kind repairs include painting and replacement of deteriorated or damaged materials with in-kind (the same as the original) material when the area to be replaced is ten percent or less of each facade, roof slope, window or door frame. Glass may be repaired with no change to thickness, color or R/U Value. The repair of fences, walks and driveways is considered "minor in-kind repair" as long as there is no change in the material used for the repairs.

D. Routine maintenance procedure.

1. If the historic preservation officer determines that the applicant is seeking a certificate of appropriateness to authorize only routine maintenance and repair work, he may review the application to determine whether the proposed work complies with the regulations contained in this section and the design guidelines and the U.S. Secretary of the Interior's standards as adopted and approve or deny the application within five days after a complete application is filed.

2. Routine maintenance and ordinary repair work includes:

a. The restoration or repair of original architectural elements using the same material and design as the original;

b. Reroofing, using the same type and color of material but no change in roofline or structure;

c. The process of cleaning (including but not limited to low pressure water blasting and stripping, but excluding sandblasting and high pressure water blasting);

d. The installation of gutters and downspouts of a color that matches or complements the dominant trim or roof color;

e. The installation of a chimney located on an accessory building, or on the rear 50 percent of a main building and not part of the corner side facade;

f. The installation of an awning located on an accessory building, or on the rear facade of a main building;

g. Skylights, solar panels and air-conditioned units when placed in noncharacter-defining facades or not visible from the front facade; include the location of proposed skylight or air-conditioned unit, list of materials and colors, sample brochure, catalog or manufacturer of skylight or air-conditioned unit;

h. The installation of storm windows and doors;

i. The installation of window and door screens;

- j. Installation of portable sheds when placed in noncharacter-defining facades and not in the front or side yards. Sheds shall not exceed 120 square feet in size; colors shall complement the existing historic structure;
- k. Landscape materials, including vegetation, irrigation, and xeriscaping, in the front, rear, side yards, and parkways;
- l. New fencing on the rear and side yards; include the location, type, material and color of proposed fencing that complies with all city ordinances;
- m. Security coverings for windows and doors; include photographs showing the location and type of proposed security grill including material and color;
- n. Exterior accessibility ramps when placed in noncharacter-defining facades; include the location of proposed accessibility ramp and list of materials and colors;
- o. Replacement of garage or household exterior doors that match the original doors; include sample of door from brochure, catalog or manufacturer;
- p. Walkways, driveways, and aprons; include location and materials;
- q. Placement of fire escapes when placed in noncharacter-defining facades and where allowed by other city ordinances;
- r. Installation of outdoor lighting fixtures and security fixtures when such elements complement the design context of the structure;
- s. Painting if the color is changed;
- t. Painting of previously painted surfaces other than brick or any type of stone.

3. The applicant may appeal the historic preservation officer's decision by submitting a written request for appeal within ten days of the decision. The written request for appeal starts the standard certificate of appropriateness review procedure by the historic preservation commission.

E. *Nonroutine maintenance procedure.*

- 1. If the historic preservation officer determines that the applicant is seeking a certificate of appropriateness to authorize work that is not routine maintenance work, or if the decision concerning a certificate of appropriateness to authorize only routine maintenance work is appealed, the historic preservation officer shall immediately forward the application to the historic preservation commission for review.
- 2. Prior to submitting to the historic preservation commission for review, the historic preservation officer shall determine whether the structure is contributing or noncontributing by reviewing the ordinance designating the property as a historic overlay district and design guidelines for the district.
- 3. Within 30 days after a complete application is filed for a certificate of appropriateness, the historic preservation commission shall hold a public hearing

and shall approve, deny with prejudice, or deny without prejudice the application and forward its decision to the director of planning and development.

4. The historic preservation commission shall deny the application for a certificate of appropriateness unless it makes the following findings:

a. Contributing structures:

(1) The proposed work is consistent with the regulations contained in this section and the preservation design guidelines as adopted;

(2) The proposed work will not have an adverse effect on the architectural features of the structure;

(3) The proposed work will not have an adverse effect on the historic overlay district; and

(4) The proposed work will not have an adverse effect on the future preservation, maintenance and use of the structure or the historic overlay district.

b. Noncontributing structures:

(1) The proposed work is compatible with the historic overlay district.

5. The historic preservation commission may approve a certificate of appropriateness for work that does not strictly comply with the design guidelines and the U.S. Secretary of the Interior's guidelines upon a finding that the proposed work is historically accurate and is consistent with the spirit and intent of the design guidelines and the Secretary of the Interior's guidelines and that the proposed work will not adversely affect the historic character of the property or the integrity of the historic overlay district.

6. The historic preservation commission may impose conditions on the certificate of appropriateness.

7. If a certificate of appropriateness has been approved by the historic preservation commission or if final action has not been taken by the commission within 30 days (for a noncontributing structure) or 65 days (for a contributing structure) after a complete application is filed, the director of planning and development shall issue the certificate of appropriateness to the applicant; and if all requirements of the development and building codes are met and a building permit is required for the proposed work, the building official shall issue a building permit to the applicant for the proposed work.

F. *Certificate of demolition or removal application.*

1. Prior to the demolition or removal of a structure in a pending or designated historic overlay, the property owner shall file a demolition or removal application with the planning and development department to be forwarded to the historic preservation commission for final decision.

2. Within ten days after submission of an application, the historic preservation officer shall notify the applicant in writing of any additional documentation required. The application must be accompanied by the following documentation before it will be considered complete:

a. An affidavit in which the owner swears or affirms that all information submitted in the application is true and correct.

3. Applications will only be accepted for one or more of the following reasons and the applicant must supply all required information for review:

a. To replace the structure with a new structure that is more appropriate and compatible with the historic overlay district;

b. No economically viable use of the property exists;

c. The structure poses an imminent threat to public health or safety; or

d. The structure is noncontributing to the historic overlay district because it is newer than the period of historic significance.

4. Within 65 days after a complete application is filed for a certificate for demolition or removal, the historic preservation commission shall hold a public hearing and shall approve or deny the application. If the historic preservation commission does not make a final decision within that time, the building official shall issue a permit to allow the requested demolition or removal. The property owner has the burden of proof to establish by clear and convincing evidence the necessary facts to warrant favorable action by the historic preservation commission.

G. *Procedure to demolish or remove a structure to replace with a new structure.*

1. The application must include:

a. Records depicting the original construction of the structure, including drawings, pictures, or written descriptions;

b. Records depicting the current condition of the structure, including drawings, pictures, or written descriptions;

c. Any conditions proposed to be placed voluntarily on the new structure that would mitigate the loss of the structure;

d. Complete architectural drawings of the new structure;

e. A guarantee agreement between the owner and the city that demonstrates the owner's intent and financial ability to construct the new structure. The guarantee agreement must:

(1) Contain a covenant to construct the proposed structure by a specific date in accordance with architectural drawings approved by the city through the pending designation certificate of appropriateness process or the certificate of appropriateness process;

(2) Require the owner or construction contractor to post a performance and payment bond, letter of credit, escrow agreement, cash deposit or other arrangement acceptable to the director to ensure construction of the new structure; and

(3) Be approved as to form by the city attorney.

2. The historic preservation commission shall deny the application unless it finds that:

a. The new structure is more appropriate and compatible with the historic overlay district than the structure to be demolished or removed; and

b. The owner has the financial ability and intent to build the new structure. The historic preservation commission must first approve the initiated designation certificate of appropriateness or certificate of appropriateness for the proposed new structure and the guarantee agreement to construct the new structure before it may consider the application to demolish or remove.

H. *Procedure to demolish or remove a structure of no economically viable use.*

1. The application must include:

a. The past and current uses of the structure and property;

b. The name of the owner;

c. If the owner is a legal entity, the type of entity and states in which it is registered;

d. The date and price of purchase or other acquisition of the structure and property, and the party from whom acquired, and the owner's current basis in the property;

e. The relationship, if any, between the owner and the party from whom the structure and property were acquired (If one or both parties to the transaction were legal entities, any relationships between the officers and the board of directors of the entities must be specified);

f. The assessed value of the structure and property according to the two most recent tax assessments;

g. The amount of real estate taxes on the structure and property for the previous two years;

h. The current fair market value of the structure and property as determined by an independent licensed appraiser;

i. All appraisals obtained by the owner and prospective purchasers within the previous two years in connection with the potential or actual purchase, financing, or ownership of the structure and property;

j. All listings of the structure and property for sale or rent within the previous two years, prices asked, and offers received;

- k. A profit and loss statement for the property and structure containing the annual gross income for the previous two years; itemized expenses (including operating and maintenance costs) for the previous two years, including proof that adequate and competent management procedures were followed; the annual cash flow for the previous two years; and proof that the owner has made reasonable efforts to obtain a reasonable rate of return on the owner's investment and labor;
- l. A mortgage history of the property during the previous five years, including the principal balances and interest rates on the mortgages and the annual debt services on the structure and property;
- m. All capital expenditures during the current ownership;
- n. Records depicting the current conditions of the structure and property, including drawings, pictures, or written descriptions;
- o. A study of restoration of the structure or property, performed by a licensed architect, engineer or financial analyst, analyzing the physical feasibility (including architectural and engineering analyses) and financial feasibility (including pro forma profit and loss statements for a ten-year period, taking into consideration redevelopment options and all incentives available) of adaptive use of restoration of the structure and property;
- p. Any consideration given by the owner to profitable adaptive uses for the structure and property;
- q. Construction plans for any proposed development or adaptive reuse, including site plans, floor plans and elevations;
- r. Any conditions proposed to be placed voluntarily on new development that would mitigate the loss of the structure;
- s. Any other evidence that shows that the affirmative obligation to maintain the structure or property makes it impossible to realize a reasonable rate of return.

2. The historic preservation commission shall deny the application unless it finds that:

- a. The structure is incapable of earning a reasonable economic return unless the demolition or removal is allowed (a reasonable economic return does not have to be the most profitable return possible);
- b. The structure cannot be adapted for any other use, whether by the owner or by a purchaser, which would result in a reasonable economic return; and
- c. The owner has failed during the last two years to find a developer, financier, purchaser or tenant that would enable the owner to realize a reasonable economic return, despite having made substantial ongoing efforts to do so.

I. *Procedure to demolish or remove a structure that poses an imminent threat.*

1. The application must include:
 - a. Records depicting the current condition of the structure, including drawings, pictures, or written descriptions;
 - b. A study regarding the nature, imminence, and severity of the threat, as performed by a licensed architect or engineer as appropriate;
 - c. A study regarding both the cost of restoration of the structure and the feasibility (including architectural and engineering analyses where applicable) of restoration of the structure, as performed by a licensed architect or engineer.
2. The historic preservation commission shall deny the application unless it finds that:
 - a. The structure constitutes a documented major and imminent threat to public health and safety;
 - b. The demolition or removal is required to alleviate the threat to public health and safety; and
 - c. There is no reasonable way, other than demolition or removal, to eliminate the threat in a timely manner.

J. Procedure to demolish or remove a structure that is noncontributing to the historic overlay district.

1. The application must include:
 - a. Documentation that the structure is noncontributing to the historic overlay district;
 - b. Documentation of the age of the structure;
 - c. A statement of the purpose of the demolition;
 - d. Any other evidence the property owner wishes to submit in support of the application;
 - e. Any other evidence requested by the preservation commission or the historic preservation officer.
2. The historic preservation commission shall deny the application unless it finds that:
 - a. The structure is noncontributing to the historic overlay district;
 - b. The structure is newer than the period of historic significance for the historic overlay district; and
 - c. Demolition of the structure will not adversely affect the historic character of the property or the integrity of the historic overlay district.

K. Appeal.

1. If an application for certificate of appropriateness or demolition or removal is denied, the applicant may appeal the denial to the city council by filing a written notice with the director within ten days after the decision of the historic preservation commission. If an appeal is filed, the city council shall hear and decide the appeal within 65 days of its filing. In considering an appeal, the sole issue before the city council is whether the historic preservation commission erred in its decision. The city council shall consider the same standards and evidence that the historic preservation commission was required to consider in making the decision. Appeal to the city council constitutes the final administrative remedy.

L. *Reapplication.*

1. If a final decision is reached denying a certificate of appropriateness or certificate for demolition or removal, no further applications may be considered for the same matter for one year from the date of the final decision unless:
 - a. The application has been denied without prejudice; or
 - b. The historic preservation commission waives the time limitation because there are changed circumstances sufficient to warrant a new hearing. A simple majority vote by the commission is required to grant the request for waiver of the time limitation.

M. *Suspension of work.*

1. After the work authorized by the certificate of appropriateness is commenced, the applicant must make continuous progress toward completion of the work, and the applicant shall not suspend or abandon the work for a period in excess of 180 days. The director of planning and development may, in writing, authorize a suspension of the work for a period greater than 180 days upon written request by the applicant showing circumstances beyond the control of the applicant.

N. *Revocation of certificate of appropriateness.*

1. The director of planning and development may, in writing, revoke a certificate of appropriateness if:
 - a. The certificate of appropriateness was issued on the basis of incorrect information supplied; the certificate of appropriateness was issued in violation of the regulations contained in this section, the design guidelines contained in the historic overlay district ordinance, the development code, or building codes; or
 - b. The work is not performed in accordance with the certificate of appropriateness, the development code, or building codes.
2. A certificate of appropriateness that is revoked by the director is subject to the amendment procedure. All work subject to the revocation of the certificate of appropriateness shall be suspended until a certificate of appropriateness has been issued by the city.

O. *Amendments to a certificate of appropriateness.*

1. Certificates of appropriateness may be amended by submitting an application for amendment to the director of planning and development. The application shall then be subject to the standard certificate of appropriateness review procedure.

P. *Expiration for certificate for demolition or removal.*

1. A certificate for demolition or removal expires if the work authorized by the certificate for demolition or removal is not commenced within 180 days from the date of the certificate for demolition or removal. The director of planning and development may extend the time for commencement of work upon written request by the applicant showing circumstances beyond the control of the applicant. If the certificate for demolition or removal expires, a new certificate for demolition or removal must first be obtained before the work can be commenced.

2. An applicant that has received a certificate of demolition or removal shall, before the proposed demolition or removal, document buildings, objects, sites or structures which are intended to be demolished with 35 mm slides or prints, preferably in black and white, digital images, and supply a set of slides or prints and CD to the city's historic preservation officer.

3. An applicant shall also prepare for the historic preservation officer a salvage strategy for reuse of building materials deemed valuable by the historic preservation officer for other preservation and restoration activities.

4. Following the demolition or removal of a building, object or structure found eligible for or located in a historic overlay district, the owner or other person having legal custody and control thereof shall:

- a. Remove all traces of previous construction, including foundation;
- b. Grade, level, sod and seed the lot to prevent erosion and improve drainage; and
- c. Repair at own expense any damage to public rights-of-way, including sidewalks, curbs and streets, that may have occurred in the course of removing the building, object, or structure and its appurtenances.

Q. *Emergency procedure.*

1. If a structure on a property subject to the initiated designation or a structure in a historic overlay district is damaged and the building official determines that the structure is a public safety hazard or will suffer additional damage without immediate repair, the building official may allow the property owner to temporarily protect the structure. In such a case, the property owner shall apply for a certificate of appropriateness or certificate for demolition or removal within ten days of the occurrence which caused the damage. The protection authorized under this subsection must not permanently alter the architectural features of the structure.

R. *Low income homeowners.*

1. When a low-income resident homeowner is unable to meet the requirements set forth in this section, the historic preservation commission, at its own discretion, may waive some or all of the required information and/or request substitute information that a low income resident homeowner may obtain without incurring any costs. If the historic preservation commission cannot make a determination based on information submitted and an appraisal of the property's market value has not been provided, then the historic preservation commission shall request that an appraisal be made by the city.

26.7 Demolition by neglect.

A. General rules:

1. No person shall allow a structure to deteriorate through demolition by neglect. All structures on properties subject to the initiated designation and in historic overlay districts must be preserved against deterioration and kept free from structural defects. The property owner or the property owner's agent with control over the structure, in keeping with the city's minimum housing standards and building codes, must repair the structure if it is found to have any of the following defects:

- a. Parts which are improperly or inadequately attached so that they may fall and injure persons or property;
- b. A deteriorated or inadequate foundation, defective or deteriorated floor supports or floor supports that are insufficient to carry the loads imposed;
- c. Walls, partitions or other vertical supports that split, lean, list or buckle due to defect or deterioration or are insufficient to carry the loads imposed;
- d. Ceilings, roofs, ceiling or roof supports, or other horizontal members which sag, split, or buckle due to defect or deterioration or are insufficient to support the loads imposed;
- e. Fireplaces and chimneys which list, bulge or settle due to defect or deterioration or are of insufficient size or strength to carry the loads imposed;
- f. Deteriorated, crumbling or loose exterior stucco or mortar;
- g. Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or floors, including broken or open windows and doors;
- h. Defective or lack of weather protection for exterior wall coverings, including lack of paint or other protective covering;
- i. Any fault, defect or condition in the structure which renders it structurally unsafe or not properly watertight;
- j. Deterioration of any exterior feature so as to create a hazardous condition which could make demolition necessary for the public safety; or
- k. Deterioration or removal of any unique architectural feature which would detract from the original architectural style.

2. Any interested party may request that the historic preservation officer investigate whether a property is being demolished by neglect.
3. The historic preservation commission will work with the property owner to encourage maintenance and stabilization of the structure and identify resources available before any enforcement action is taken.

B. *Demolition by neglect procedure.*

1. *First meeting with the property owner.* Upon receipt of a request, the historic preservation officer shall meet with the property owner or the property owner's agent with control of the structure to inspect the structure and discuss the resources available for financing any necessary repairs. After the meeting, the historic preservation officer shall prepare a report for the historic preservation commission on the condition of the structure, the repairs needed to maintain and stabilize the structure, any resources available for financing the repairs, and the amount of time needed to complete the repairs.
2. *Certification and notice.* After review of the report, the historic preservation commission may vote to certify the property as a demolition by neglect case. If the historic preservation commission certifies the structure as a demolition by neglect case, the commission shall notify the property owner or the property owner's agent with control over the structure of the repairs that must be made. The notice must require that repairs be started within 30 days and set a deadline for completion of the repairs. The notice must be sent by certified mail.
3. *Second meeting with the property owner.* The historic preservation officer shall meet with the property owner or the property owner's agent with control over the structure within 30 days after the notice was sent to inspect any repairs completed and assist the property owner in obtaining any resources available for financing the repairs.
4. *Referral for enforcement.* If the property owner or the property owner's agent with control over the structure fails to start repairs by the deadline set in the notice, fails to make continuous progress toward completion, or fails to complete repairs by the deadline set in the notice, the historic preservation commission may refer the demolition by neglect case to the building official or the city attorney for appropriate enforcement action to prevent demolition by neglect.

26.8 *Historic preservation fund.*

A. *Historic preservation fund.* The department of planning and development, in cooperation with community organizations, shall develop appropriate funding structures and shall administer the historic preservation fund. The historic preservation fund is composed of the following funds:

1. Outside funding (other than city general funds or capital funds), such as grants and donations, made to the city for the purpose of historic preservation and funding partnerships with community organizations;

2. Damages recovered pursuant to Texas Local Government Code section 315.006 from persons who illegally demolish or adversely affect historic structures.

B. *Outside funding may be used for financing the following activities.*

1. Necessary repairs in demolition by neglect cases;
2. Full or partial restoration of low-income residential and nonresidential structures;
3. Full or partial restoration of publicly owned historic structures;
4. Acquisition of historic structures, places or areas through gift or purchase;
5. Public education of the benefits of historic preservation or the regulations governing historic overlay districts; and
6. Identification and cataloging of structures, places, areas, and districts of historical, cultural, or architectural value along with factual verification of their significance.

C. *Damages recovered pursuant to Texas Local Government Code section 315.006 must be used only for the following purposes.*

1. Construction, using as many of the original materials as possible, of a structure that is a reasonable facsimile of a demolished historic structures;
2. Restoration, using as many of the original materials as possible, of the historic structure; and
3. Restoration of another historic structure.

26.9 *Administration.*

A. *Enforcement.*

All work performed pursuant to a certificate of appropriateness issued under this section shall conform to all its requirements. It shall be the duty of the director of planning and development to inspect periodically to assure such compliance.

B. *Penalties.*

1. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not to exceed \$2,000.00 and a separate offense shall be deemed committed upon each day or portion of a day during or on which a violation occurs or continues.
2. Any person who adversely affects or demolishes a structure on property subject to the pending designation or in a historic overlay district in violation of this section is liable pursuant to Texas Local Government Code section 315.006 for damages to restore or replicate, using as many of the original materials as possible, the structure to its appearance and setting prior to the violation. No pending designation certificates of appropriateness, certificates of appropriateness or building permits will be issued for construction on the site except to restore or

replicate the structure. When these restrictions become applicable to a site, the director shall cause to be filed a verified notice in the county deed records and these restrictions shall be binding on future owners of the property. These restrictions are in addition to any fines imposed.

3. Prosecution in municipal court for an offense under this section does not prevent the use of other enforcement remedies or procedures provided by other city ordinances or state or federal laws applicable to the person charged with or the conduct involved in the offense.

Sec. 12-3-8. CBD Central Business District.

(a) *General purpose and description.* The development standards in the CBD, Central Business district, are designed to maintain and encourage development and redevelopment within the central business section (old downtown) of the City in a "pedestrian friendly" environment that is conducive to special events such as sidewalk sales, street dances, festivals, and other similar events. Standards for the district are generally intended to regulate development such that new structures look similar to existing ones within this Section of the City. They are also intended to preserve and enhance the community's "small town" heritage and the unique character of the City's original business district.

(b) *Permitted uses.*

Any use by right listed in the R3 Multifamily Residential zoning district

Civic clubs, halls and lodges

Convalescent/Nursing home

Office

Private club

Professional service

Restaurant

Retail sales

(c) *Conditional uses.* (Approval by the Planning and Zoning Board and the City Council is required).

Accessory dwelling

Agriculture

Amusement services

Appliance repair

Assisted living facility

Cemetery/Mausoleum

Child care facility

Communication antennas, support structures and towers

Entertainment
Exhibition hall
Funeral Home
Hospital
Hotel/Motel
Kiosk (providing a service)
Market (public)
Medical service
Micro brewery (onsite mfg. and sales)
Motor vehicle repair
Motor vehicle service
Outdoor recreation
Pawn shop
Public garage/parking structure
Recycling kiosk
School, other
Telemarketing agency
Veterinarian clinic

(d) *Height regulations.* No structure shall exceed the greater of two (2) stories or thirty-five (35) feet for the main building(s).

(e) *Area regulations.*

(1) *Size of lot.*

- a. Minimum lot area--none specified.
- b. Minimum lot width--none specified.
- c. Minimum lot depth--none specified.

(2) *Size of yards.*

- a. Minimum front yard--none specified.
- b. Minimum side yard--none specified.
- c. Minimum rear yard--none specified.

(3) *Maximum lot coverage*--one hundred (100) percent including main and accessory buildings.

(4) *Maximum floor-area-ratio (FAR)*--three to one (3:1).

(5) *Parking requirements.* No off-street parking shall be required. Every effort shall be made to establish off-street parking for all new structures within two hundred (200) feet of the site.

(f) *Special requirements.*

(1) For site redevelopment or new construction, building facade (i.e., elevation) plans shall be submitted for review and approval along with the site plan. Facade plans shall clearly show how the building(s) will look, especially as viewed from the road(s) upon which the property faces and/or sides, and will portray a reasonably accurate depiction of the materials and colors to be used. Architectural style and scale of new/renovated buildings within the CBD district shall be compatible with the styles and scale of other adjacent buildings, and shall be historically accurate to the greatest extent possible in order to preserve the unique character of the downtown area.

The City Manager may, as he/she deems appropriate, require submission of additional information and materials (including actual samples of materials to be used) during the site plan review process.

(2) Design Standards for the CBD District.

- a. False fronts or parapets may be added to existing buildings in order to add character and detail to simple facades.
- b. Predominant exterior finish colors shall be of fired brick, similar to that which is present on adjacent existing buildings (other masonry materials may also be considered during site plan review). Trim (i.e., lintels, sills, door jambs, cornices and other similar items) shall be brick, cast stone, stone, cast or wrought iron, or concrete, and colors shall be complementary to the predominant facade colors. Accent colors for friezes, doors and door frames, window frames and mullions, signage, awnings, moldings and other similar features shall be colors that are complementary to, and compatible with, the spirit and intent of the downtown streetscape (bright or fluorescent colors which were not typically used in early Texas downtowns shall not be used).
- c. Reflective glass shall not be used for windows; detailing for windows, doors and other openings shall be of wood, glass or a metal material that is complementary to the period or building style.
- d. Facade openings shall comprise at least forty (40) percent of the building's facade area.
- e. Awnings/canopies:
 1. *Ratios.* Awnings shall be at an appropriate scale to the building size and configuration. They shall not extend above the roofline of any single-story structure, or above the top of the second floor of any multi-story structure at the awnings' highest points. Awnings shall not completely obstruct any windows on the building.

2. *Projection.* Since awnings must extend beyond the building face, a reasonable amount of projection shall be allowed. No awning shall extend more than five (5) feet outward from the building face/surface.

3. *Colors and materials.* A mixture of colors is recommended, but no more than three different colors shall be used for awnings on a single building facade (excluding business logo, which may have more colors). Materials shall be of cloth or canvas, or another material that is complementary to the period or building style (metal or plastic shall be prohibited).

4. *Movement.* Except for slight movements that are normal for fabric canopies (i.e., along fringe, etc.), no movement shall be allowed for awnings and canopy structures.

f. New utility lines to business establishments shall be placed underground or toward the rear of existing buildings.

g. Pedestrian spaces shall be treated with amenities that are selected based upon their ability to unify the streetscape with the area's historic past. It is important that elements such as construction materials, colors, textures and fixture design complement the area's historic qualities. These features shall be repeated throughout the streetscape so as to unify the district as a whole.

h. Planters, window boxes, street furniture and other streetscape furnishings shall be complementary to the historical time frame of the CBD area, and shall be located not more than five feet from the building front/facade.

(3) Open storage is prohibited in the CBD district.

(4) Outside display of merchandise and/or seasonal items (e.g., Christmas trees, pumpkins, etc.) shall be limited to the following:

a. Shall not be placed/located more than twelve (12) feet from the main building.

b. Shall not occupy any on-street or off-street parking spaces.

c. Shall not pose a safety or visibility hazard, nor impede public vehicular or pedestrian circulation, either on-site or off-site, in any way (i.e., sidewalk sales cannot block the sidewalk or extend out into the street).

d. Shall only be located in front of the property/business that is selling the item(s).

e. All outside display items shall be removed at the end of business each day (except for large seasonal items such as Christmas trees).

f. All merchandise shall be displayed in a neat, orderly manner, and the display area shall be maintained in a clean, litter-free manner.

(5) The architectural design of buildings and sites shall strive to achieve the following objectives:

a. Architectural compatibility;

b. Human scale design;

- c. Integration of uses;
 - d. Encouragement of pedestrian activity;
 - e. Buildings that relate to, and are oriented toward, the pedestrian areas and surrounding buildings; and
 - f. Buildings that contain special architectural features to signify entrances;
- All building materials shall be depicted on architectural elevations and supporting information.

(6) Other regulations--As established in the Development Standards, Chapter 5.

Sec. 12-3-9. C1 Commercial.

(a) In the C1 Commercial district no building or premises shall be used, configured, erected or altered except in conformity with the following use, area and height regulations.

(b) *Permitted uses.*

Any use by right listed in the CBD Central Business District zoning district

Amusement services

Appliance repair

Assisted living facility

Child care facility

Exhibition hall

Hospital

Market (public)

Medical service

Motor vehicle repair

Motor vehicle service

Pawn shop

School, other

(c) *Conditional uses.* (Approval by the Planning and Zoning Board and the City Council is required).

Accessory dwelling

Agriculture

Car wash

Cemetery/Mausoleum

Communication antennas, support structures and towers

Entertainment

Fair grounds/rodeo grounds
Funeral home
Hotel/Motel
Kiosk (providing a service)
Light manufacturing
Micro brewery (onsite mfg. and sales)
Mini-warehouse/self-storage
Motor vehicle rental
Motor vehicle sales
Outdoor recreation
Public garage/parking structure
Recycling kiosk
Taxidermist
Telemarketing agency
Veterinarian clinic
Warehouse/Office

(d) *Height regulations.* No structure shall exceed the greater of two (2) stories or thirty-five (35) feet in height for the main building.

(e) *Area regulations.*

(1) *Front yard.*

- a. In all locations where building lines, setback lines or front yard lines are shown on recorded plats, the minimum setback or front yard shall be as shown on the plat.
- b. In all other locations the minimum front yard setback shall be twenty-five (25) feet.
- c. No accessory structures shall be located in front yards.

(2) *Side yard.*

- a. In all locations where building lines, or side lines on corner lots, are shown on recorded plats, the minimum side yard shall be as shown on the plat.
- b. In all other locations there shall be a side yard on each side of the structures of no less than five (5) feet in width. Except, when retail uses are platted adjacent to other retail uses and integrated into an overall shopping center site (i.e., lots/lease spaces abutting one another), no side yard is required provided it complies with the City's Building Code.

- c. For corner lots, there shall be a side yard on the street side of the structure of no less than twenty (20) feet.
- (3) *Rear yard.* There shall be a rear yard having a depth of not less than ten (10) feet for the main building.
- (4) *Lot area.*
 - a. Lot area – none specified.
 - b. Minimum lot width – none specified.
 - c. Minimum lot depth – none specified.

Sec. 12-3-10. C2 Commercial/Interstate.

(a) In the C2 Commercial/Interstate district no building or premises shall be used, configured, erected or altered except in conformity with otherwise provided in this chapter, and all buildings erected or altered shall conform to the following use, area and height regulations.

(b) *Permitted uses.*

Any use by right listed in the C1 Commercial zoning district

Car wash

Entertainment

Hotel/Motel

Kiosk (providing a service)

Public garage/parking structure

(c) *Conditional uses.* (Approval by the Planning and Zoning Board and the City Council is required).

Accessory dwelling

Agriculture

Camp grounds

Cemetery/Mausoleum

Communication antennas, support structures and towers

Fair grounds/rodeo grounds

Funeral home

Light manufacturing

Micro brewery (onsite mfg. and sales)

Mini-warehouse/self-storage

Motor vehicle rental

Motor vehicle sales

Outdoor recreation

Recycling kiosk

Sand/Gravel/Caliche/Stone sales (storage)

Taxidermist

Telemarketing agency

Veterinarian clinic

Warehouse/Office

(d) *Height regulations.* No structure shall exceed the greater of ten (10) stories or one hundred twenty-five (125) feet in height for the main building/house.

(e) *Area regulations.*

(1) *Front yard.*

- a. In all locations where building lines, setback lines or front yard lines are shown on recorded plats, the minimum setback or front yard shall be as shown on the plat.
- b. In all other locations the minimum front yard setback shall be twenty-five (25) feet.
- c. No accessory structures shall be located in front yards.

(2) *Side yard.*

- a. In all locations where building lines, or side lines on corner lots, are shown on recorded plats, the minimum side yard shall be as shown on the plat.
- b. In all other locations there shall be a side yard on each side of the structures (interior) of no less than ten (10) feet in width. Except, when retail uses are platted adjacent to other retail uses and integrated into an overall shopping center site (i.e., lots/lease spaces abutting one another), no side yard is required provided it complies with the City's Building Code.
- c. For corner lots there shall be a side yard on the street side of the structure of no less than twenty (20) feet.

(3) *Rear yard.* There shall be a rear yard having a depth of not less than twenty (20) feet for the main building.

(4) *Lot area.*

- a. Lot area – none specified.
- b. Minimum lot width - none specified.
- c. Minimum lot depth – none specified.

Sec. 12-3-11. I Industrial.

(a) In the I Industrial district no building or premises shall be used, configured, erected or altered except in conformity with the following use, area and height regulations.

(b) *Permitted uses.*

Accessory structures
Amusement services
Appliance repair
Assisted living facility
Bed and breakfast/boarding house
Camp grounds
Car wash
Church/Place of worship
Civic clubs, halls and lodges
Community service
Convalescent/Nursing home
Entertainment
Fair grounds/rodeo grounds
Funeral home
Hospital
Hotel/Motel
Kiosk (providing a service)
Light manufacturing
Market (public)
Medical service
Micro brewery (onsite mfg. and sales)
Mini-warehouse/self-storage
Motor vehicle rental
Motor vehicle repair
Motor vehicle service
Office
Park/Playground
Private club
Professional service
Public garage/parking structure
Restaurant

Retail sales

Sand/Gravel/Caliche/Stone sales (storage)

School (K through 12)

School, other

Utilities (public)

Warehouse/Office

(c) *Conditional uses.* (Approval by the Planning and Zoning Board and the City Council is required).

Accessory dwelling

Agriculture

Cemetery/Mausoleum

Child care facility

Communication antennas, support structures and towers

Exhibition hall

Exploration and extraction of hydrocarbons, sand, gravel, caliche or stone

Heavy manufacturing

Motor vehicle sales

Motor vehicle salvage

Outdoor recreation

Pawn shop

Recycling kiosk

Taxidermist

Telemarketing agency

Veterinarian clinic

(d) *Height regulations* – None specified.

(e) *Area regulations.*

(1) *Front yard.*

a. In all locations where building lines, setback lines or front yard lines are shown on recorded plats, the minimum setback or front yard shall be as shown on the plat.

b. In all other locations the minimum front yard setback shall be fifty (50) feet.

c. No accessory structures shall be located in front yards.

(2) *Side yard.*

- a. In all locations where building lines, or side lines on corner lots, are shown on recorded plats, the minimum side yard shall be as shown on the plat.
 - b. In all other locations there shall be a side yard on each side of the structures (interior) of no less than twenty-five (25) feet in width.
 - c. For corner lots there shall be a side yard on the street side of the structure of no less than twenty-five (25) feet.
- (3) *Rear yard.* There shall be a rear yard having a depth of not less than twenty-five (25) feet for the main building.
- (4) *Lot area.*
- a. Lot area – none specified.
 - b. Minimum lot width – none specified.
 - c. Minimum lot depth – none specified.

Sec. 12-3-12. Overlay and special districts.

Overlay districts shall be used in conjunction with base zoning districts where it is appropriate to do so. In the use of the following overlay zoning classifications, the base district shall remain in effect unless changed by zoning amendment in accordance with this Ordinance. New base districts or changes in existing base districts may be requested at the same time overlay or special districts are requested. Development within an overlay district must conform to the requirements of both districts or the more restrictive of the two.

(a) *Conditional use provisions.*

(1) *Purpose and intent.*

- a. A conditional use is a land use which, because of its unique nature, is compatible with the permitted land uses in a given zoning district only upon a determination that the external effects of the use in relation to the existing and planned uses of adjoining property and the neighborhood can be mitigated through imposition of standards and conditions. This section sets forth the standards used to evaluate proposed conditional uses and the procedures for approving conditional use permit applications.
- b. No conditional use shall be established and no building permit shall be issued for any use designated as a conditional use within a zoning district until a conditional use permit is issued in accordance with the provisions of this subsection.
- c. If a use is not listed as either a permitted use or conditional use in the district for which the subject property is located, a conditional use permit shall be required.

(2) *Status of conditional uses.* The following general rules apply to all conditional uses:

- a. The designation of a use in a zoning district as a conditional use does not constitute an authorization or assurance that such use will be approved.
- b. Approval of a conditional use permit shall authorize only the particular use for which the conditional use permit is issued.

- c. No use authorized by a conditional use permit shall be enlarged, extended or relocated, nor may the number of dwelling units be increased, unless an application is made for approval of a new conditional use permit in accordance with the procedures set forth in this subsection.
 - d. Development of the use shall not be carried out until the applicant has secured all the permits and approvals required by these zoning regulations, the City Code of Ordinances, and any permits required by regional, state and federal agencies.
- (3) *Procedures for conditional use approval.*
- a. Conditional use shall only be approved by the adoption of an ordinance following the same notice and hearing procedures as for zoning changes.
 - b. Upon receipt of a recommendation from the City Manager, the Planning and Zoning Board shall conduct a public hearing in order to formulate its recommendations to the City Council on the conditional use permit application. Following the public hearing, the Planning and Zoning Board shall recommend approval, approval subject to modification, or denial of the proposal to the City Council in accordance with this Ordinance. If the appropriateness of the use cannot be assured at the location, the Planning and Zoning Board shall recommend denial of the application as being incompatible with existing uses or with other uses permitted by right in the district.
 - c. The City Council shall be the final decision-maker on applications for conditional use permits. Following a public hearing and consideration of the Planning and Zoning Board's recommendation, the City Council shall approve, modify or deny the proposal for a conditional use permit in accordance with this Ordinance. If the appropriateness of the use cannot be assured at the location, the application for conditional use permit shall be denied as being incompatible with existing uses or with other uses permitted by right in the district.
- (4) *Standards.*
- a. When considering applications for a conditional use permit, the Planning and Zoning Board and the City Council shall, on the basis of the site plan and other information submitted, evaluate the impact of the conditional use on, and the compatibility of the use with, surrounding properties and neighborhoods to ensure the appropriateness of the use at a particular location. The Planning and Zoning Board and the City Council shall specifically consider the extent to which:
 - 1. The proposed use at the specified location is consistent with the policies embodied in the adopted comprehensive plan;
 - 2. The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;
 - 3. The proposed use meets all supplemental standards specifically applicable to the use as set forth in this Ordinance;
 - 4. The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhoods and, as required by the particular

circumstances, includes improvements or modifications either on-site or within the public rights-of-way to mitigate development-related adverse impacts, including but not limited to:

- i. Adequate ingress and egress to property and proposed structures thereon with particular reference to vehicular and pedestrian safety and convenience, and access in case of fire;
- ii. Off-street parking and loading areas;
- iii. Refuse and service areas;
- iv. Utilities with reference to location, availability, and compatibility;
- v. Screening and buffering, features to minimize visual impacts, and/or set-backs from adjacent uses;
- vi. Control of signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;
- vii. Required yards and open space;
- viii. Height and bulk of structures;
- ix. Hours of operation;
- x. Exterior construction material and building design; and
- xi. Roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development-generated traffic on neighborhood streets.

5. The proposed use is not materially detrimental to the public health, safety, convenience and welfare, and does not result in material damage or prejudice to other property in the vicinity.

b. In approving the application, the Planning and Zoning Board may recommend and the City Council shall impose such conditions as are reasonably necessary to assure compliance with these standards and the purpose and intent of this subsection, in accordance with the procedures in this Ordinance. Any conditions imposed shall be set forth in the ordinance approving the conditional use. The City shall maintain a record of such approved conditional uses and conditions attached thereto.

c. The foregoing standards of development shall not be subject to variances that otherwise could be granted by the Board of Adjustment, nor may conditions imposed by the City Council subsequently be waived or varied by the Board. In conformity with the authority of the City Council to authorize conditional uses, the City Council may waive or modify specific standards otherwise made applicable to the use by this Ordinance, to secure the general objectives of this subsection; provided, however, that the City Council shall not waive or modify any approval factor set forth in this subsection.

(5) *Amendment.* No proposed or existing building, premise or land use authorized as a conditional use may be established, enlarged, modified, structurally altered, or otherwise changed from that approved in the conditional use permit, unless such amendment is authorized in accordance with the standards and procedures set forth in this subsection, and the conditional use permit are amended accordingly.

(b) *Reserved.*

(c) *Planned Development (PD) district.*

(1) *General purpose and description.* The purpose of the planned development regulations is to encourage flexibility in the use and development of land in order to promote its most appropriate use; to provide a high level of urban amenities; to preserve the quality of the natural environment; and to provide flexibility in the development of land subject to development standards coordinated with the provisions of necessary public services and facilities.

(2) *Pre-application review.* Prior to making an application to the Planning and Zoning Board, the application shall be reviewed by the Development Review Committee (DRC). There is no fee for this review. DRC review is for the purpose of providing information to the applicant prior to their entering into binding contractual commitments or incurring substantial expense in the preparation of plans, surveys or other data.

(3) *Application of Planned Development district provisions.* An application for a planned development district is considered the same as a zoning change, and is therefore made to the Planning and Zoning Board and City Council in the same manner that an application for zoning change is made according to this Ordinance.

a. The application for PD zoning shall be accompanied by a development site plan, the appropriate filing fee, along with a list of supplemental development regulations, which will become a part of the amending ordinance and be referenced on the Zoning Map. Changes in the development site plan or supplemental development regulations shall be considered the same as changes in the Zoning Map. The proposed application and site plan shall be processed as required except that minor changes, which do not cause any of the following circumstances to occur, may be authorized by the City Manager (or his/her designee):

1. A five percent (5%) or greater increase in the gross floor areas of structures;
2. Any substantial and material changes in external effects on adjacent property, such as noise, heat, light, glare and vibration;
3. A ten percent (10%) or greater increase in the height of structures;
4. A ten percent (10%) or greater reduction in the originally approved setbacks from property lines;
5. A five percent (5%) or greater reduction in the ratio of off-street parking and loading space; and/or

6. A change in the size, height, lighting, flashing, animation or orientation of originally approved signs, which were approved as part of the PD approval as a sign plan.

b. The City Manager shall prepare a written report analyzing the development site plan, and such report shall be given to the Planning and Zoning Board and the applicant prior to the public hearing. Upon recommendation for approval by the Planning and Zoning Board to the City Council, the request will be presented to the City Council for a first reading and a final reading.

c. Effect of Planned Development district approval: Approval of a Planned Development District shall constitute an amendment to the zoning ordinance. Designation of a property as a Planned Development district, in accordance with an approved development plan, shall supersede all existing and prior zoning classifications. Such property shall for zoning purposes be identified by the letters "PD" followed by an identifying number, assigned by the City Manager.

(4) *Standards.* All Planned Development districts shall, at a minimum, satisfy the following standards and requirements:

a. *Uses permitted.* The development plan shall specify, both for the project as a whole and/or for subareas within the project, as appropriate, those principal and accessory uses as are to be permitted, identified as permitted uses, conditional uses, and prohibited uses. The City Council may include or exclude uses from the development plan or include uses with attached conditions as appropriate to achieve the intent of these provisions.

In making its determinations of the uses to be permitted within the PD district, the City Council may consider the compatibility and relationship of uses within the project, the compatibility and relationship of permitted uses adjoining or in proximity to the PD district, the appropriateness of permitted uses for the area in general and their overall impact on the community, and the consistency of the permitted uses with other adopted plans and policies.

b. *Intensity of development.* The development plan shall contain provisions to regulate the intensity of development within the Planned Development district. Such provisions may apply to the project as a whole or to subareas within the project, as appropriate.

1. For non-residential development, the intensity of development may be regulated:

- i. By specifying an appropriate floor area ratio(s) (FAR);
- ii. By specifying maximum square footage or gross leasable area;
- iii. By specifying setbacks, height and bulk restrictions; or
- iv. By a combination of such restrictions for the project as a whole or for components or subareas within the project.

2. For residential development, the density of residential dwelling units within a PD district shall be computed in accordance with a formula identified as part of the development plan. Such density formula shall be accompanied by supporting documentation and logic behind the density formula.

The permitted number of dwelling units may be distributed in any manner over the residential portion of the project consistent with the intent and provisions of this Ordinance. The development plan shall specify distribution of residential density for the project as a whole or for subareas within the project as appropriate. In making its determination regarding the distribution of residential densities, the City Council may consider compatibility of residential densities with other uses within the district as well as outside the district, the impact of residential densities on public facilities and services, and the consistency with the master plan, the comprehensive plan, and/or other adopted plans and policies.

c. *Bulk, area and height requirements.* The development plan shall specify bulk, area and height restrictions for the project as a whole and for subareas and/or components of the project as appropriate. The City Council may impose alternate or additional standards or restrictions to achieve the intent of this Ordinance. In making its determination regarding such standards or restrictions, the City Council may consider the character and scale of the proposed development as it relates to other uses and structures both within the district and outside the district, the general character and scale of similar developments within the area of the proposal, and the consistency with adopted plans and policies.

d. *Public facilities.* The development plan shall specify conditions, restrictions and standards relating to the timely provisions of necessary public facilities as appropriate. The City Council may impose conditions, restrictions and standards as appropriate to achieve the intent of this title. In making its determination regarding such conditions, restrictions and standards, the City Council may consider the adequacy of existing facilities, the timely provision of adequate facilities and the overall cost to the community.

e. *Access to public thoroughfares.* The development plan shall specify the location and general design of ingress and egress to the project along with access restrictions as appropriate. The City Council may impose such access standards and restrictions as necessary to protect the integrity and function of the City's thoroughfare system and to otherwise achieve the intent of this title. In making its determination regarding such access standards and restriction, the council may consider the classification and function of the thoroughfare system, existing and projected traffic volumes, the condition and design of the affected thoroughfares, the effect of the proposed development on traffic flow and circulation patterns on other adopted plans and policies.

f. *Off-street parking and loading requirements.* Unless specifically modified by the development plan, the off-street parking and loading requirements contained within the zoning regulations shall apply. Reductions in off-street parking and loading standards shall be approved only if it can be demonstrated that parking demand will

be less due to density and/or occupancy characteristics of the project and/or the availability of public transportation.

g. *Signs.* Unless specifically modified by the development plan, the sign regulations contained within the zoning regulations shall apply. Modifications to the sign regulations shall be approved only if the general intent to the sign regulations regarding size, location, illumination, structural integrity and relation to surrounding uses is satisfied.

h. *Perimeter treatment.* The development plan shall specify any special treatment of perimeter areas designed to mitigate the impact of the project upon adjoining properties and/or to achieve an appropriate transition between land uses and densities. The council may impose those standards and requirements for perimeter treatment it deems necessary to protect adjoining properties from adverse effects and to achieve an appropriate transition of land uses and densities.

(5) *Application Process.*

a. *Procedure.* Applications for Planned Development (PD) District designation shall be processed pursuant to a three-step review process as specified in this subsection. The three-step procedure shall include: 1) a pre-application conference with DRC (Development Review Committee); 2) a preliminary development plan (Planning and Zoning Board); and 3) a final development plan (City Council).

b. *Pre-application conference.* The pre-application conference is an informal procedure to assist the applicant in meeting various requirements of the City and to provide an early preview of the application.

c. *Preliminary development plan.* Upon satisfying the pre-application conference requirement, an applicant may submit an application to the Planning and Zoning Board. The following information shall, at a minimum, be included in the application:

1. A legal description of the site proposed for PD designation, including a statement regarding present ownership and present zoning.
2. A master conceptual plan that indicates parcel, tract, or lot locations and dimensions; density per gross and per net acres in the development and in each land use component, if appropriate; the intensity of land use in the development and each land use component, if appropriate; the amount of land in common area open space, recreation use or public use, if appropriate; and the treatment of project boundaries.
3. Written text which includes supporting graphics describing the overall concept of the plan; the uses included and any limitations upon uses; building types and prototypical site layouts, if appropriate; provisions for maintenance of common areas; any proposed agreements, dedications or easements; any proposed private covenants and restrictions; and any other information required by this subsection or pertinent to a determination of compliance with this subsection.

4. A circulation plan that indicates roads adjoining the property; the location of access from public roads into the project; and vehicular and pedestrian circulation systems within the project. The circulation plan may be included as part of the master conceptual plan.
5. An improvement plan that indicates water supply and distribution facilities as well as the source of the water supply; sewage collection and disposal including method and location of sewage discharge; methods and facilities for the management of storm-water runoff; improvements to streets and roads; and any other physical improvements required to support the project.
6. A statistical summary that indicates the number of acres in the project; the number of acres allocated to each land use within the project; the gross and net residential density within the project and within each land use component of the project; and floor area, floor area ratios, open space ratios, and other data relating the intensity of the development to the site size and location.
7. A parking analysis showing that the total parking demand for uses in the Planned Development District does not exceed the total supply of available parking spaces.
8. The following elements are optional at the request of the Planning and Zoning Board:
 - i. A sign plan which indicates the location, size and design and other pertinent provisions relating to signs within the project;
 - ii. A parking plan which shows the number of parking spaces as well as their general location and design;
 - iii. An environmental impact statement indicating possible problem areas within the site as well as solutions to these problems as intended by the developer.
- d. *Final development plan.* The City Council, after public hearing and proper notice to all parties affected, and after recommendation from the Planning and Zoning Board, shall review the Planned Development zoning request for final approval.

Chapter 4. Reserved.

Chapter 5. Development Standards

Sec. 12-5-1. Accessory building and use regulations.

- (a) In a one-family or two-family residential district, an accessory building is a subordinate or incidental building, detached from the main building, not used for commercial purposes and not rented. Accessory buildings shall be located toward the rear portion of the property.
- (b) In nonresidential districts, an accessory building is a subordinate building, the use of which is secondary to and supportive of the main building. Accessory buildings shall not be permitted without a main building or primary use being in existence. Accessory buildings should, wherever possible, be located toward the rear portion of the property.

(c) Accessory dwelling units in the AG Agricultural district shall be allowed as an incidental residential use of a building on the same lot as the main dwelling unit and used by the same person or persons of the immediate family.

(1) The accessory dwelling unit may be constructed only with the issuance of a building permit, and shall be constructed out of materials which aesthetically complement the main structure.

(2) The accessory dwelling unit may not be sold separately from sale of the entire property, including the main dwelling unit, and shall not be sublet.

(d) *Height regulations.* No accessory structure shall exceed one (1) story or twelve (12) feet in height.

(e) *Area regulations.*

(1) *Front yard.* Detached accessory buildings shall be prohibited in front of the main building.

(2) *Side yard.*

a. In all locations where building lines, setback lines or side yard lines are shown on recorded plats, the minimum setback or side yard shall be as shown on the plat.

b. In all other locations, the minimum side yard setback shall be three (3) feet.

c. The minimum side yard setback to a street shall be fifteen (15) feet.

(3) *Rear yard.* There shall be a rear yard having a depth of not less than three (3) feet.

Sec. 12-5-2. Exterior construction and design requirements.

(a) *Masonry requirements.* Masonry construction shall include all construction of stone material, brick material, concrete masonry units, or concrete panel construction, which is composed of solid, cavity, faced, or veneered-wall construction.

Standards for masonry construction:

(1) Stone material may consist of granite, marble, limestone, slate, river rock, and other hard and durable naturally occurring all weather stone. Cut stone and dimensioned stone techniques are acceptable.

(2) Brick material shall be hard fired (kiln fired) clay or slate material which meets the latest version of ASTM standard C216, Standard Specification for Facing Brick, and shall be Severe Weather (SW) grade, and Type FBA or FBS or better.

(3) Concrete masonry units shall meet the latest version of the following applicable specifications; ASTM C90, Standard Specification for Hollow Load Bearing Concrete Masonry Units; ASTM C145, Standard Specification for Solid Load Bearing Masonry Units; ASTM C129, Standard Specification for Hollow and Solid Nonload Bearing Units. Concrete masonry units shall have an indented, hammered, split face finish or other similar architectural finish as approved by the City Manager. Lightweight concrete block or cinder block construction is not acceptable as an exterior finish.

(4) Concrete panel finish, pre-cast panel, tilt wall, or cementitious composition reinforced panel construction shall be painted, fluted, or exposed aggregate. Smooth or untextured concrete finishes are not acceptable unless painted.

(b) *Construction standards.* The standards and criteria contained within this Section are deemed to be minimum standards and shall apply to all new, altered or repaired construction occurring within the City.

(1) Residential:

a. All one-family dwellings, two-family dwellings and townhouses shall be of exterior construction having at least seventy-five (75) percent of the total exterior walls above grade level and below the first floor plate line, excluding doors and windows, constructed of masonry. Strict adherence to this rule shall not be such as to prevent architectural creativity for alterations or repairs, or for residences located in a subdivision in which more than twenty-five (25) percent of the lots have been developed.

b. All principal buildings and structures located in multifamily dwelling districts shall be of exterior construction having at least seventy-five (75) percent of the total exterior walls, excluding doors and windows, constructed of brick, stone, or other material of equal characteristics.

c. Exemptions:

1. Accessory buildings one hundred twenty (120) square feet or less.
2. Provided the construction closely matches the aesthetics of the main structure, accessory buildings exceeding one hundred twenty (120) square feet, which are located on a premise in which the main structure is not in compliance with the exterior masonry requirements as contained herein.
3. Accessory structures on property of two (2) acres or more, located in AG Agricultural districts, provided that such structures are used solely for agricultural purposes.

(2) Nonresidential:

a. All nonresidential structures shall be of exterior construction having at least seventy-five (75) percent of the total exterior walls above grade level, excluding doors and windows, constructed of the following materials:

Copper.

Limestone.

Rustic wood.

Stucco.

Tile.

Granite.

Marble.

Other stone materials as approved by the City Manager (or his/her designee).

Glass.

Strict adherence to this requirement shall not be such as to prevent architectural creativity for alterations or repairs, or for structures that are designed to meet franchise affiliation.

b. Temporary buildings and temporary building material storage areas to be used for construction purposes only, may be permitted in accordance with a permit issued by the Building Official and subject to periodic renewal by the Building Official for cause shown. Upon completion or abandonment of construction or expiration of permit, such field offices/buildings and material storage areas shall be removed to the satisfaction of the Building Official.

c. Temporary portable buildings, including overseas shipping containers, cargo or freight containers, PODS "portable on demand storage", and PSU's "portable storage units", may be permitted with a temporary container permit in accordance with the following stipulations:

1. A temporary container permit must be applied for by the owner of the property upon which the portable storage container is proposed to be located. The application shall require an exhibit showing the proposed location for the structure and the duration of its intended use. The permit application and associated fees shall be submitted through the offices of Planning and Development.
2. Temporary portable storage containers shall not be permitted on lots without a main structure.
3. No portable storage container shall have dimensions greater than sixteen (16) feet in length, eight (8) feet in height or eight (8) feet in width, nor contain more than one thousand twenty-four (1024) cubic feet.
4. All portable storage containers shall be in a condition free from rust, peeling paint and other forms of deterioration.
5. All portable storage containers must include a "placard" not less than one square foot which is clearly visible from the right-of-way which includes the container identification number, date of its placement on the property, date that removal will be required, permit number, and local telephone number.
6. Portable storage containers shall only be located on an improved surface.
7. Portable storage containers shall not be placed in required landscaped areas, open areas, retention basins, drive aisles, fire lanes, loading zones, required parking spaces, or other locations that may cause hazardous conditions, constitute a threat to public safety, or create a condition detrimental to surrounding land uses and development.
8. Portable storage containers shall be a minimum ten (10) feet from any property line.

9. Portable storage containers shall be allowed for no more than a total of fifteen (15) days in any consecutive 6-month period, unless the property owner has a valid remodel permit or seasonal portable container permit, at which time the unit may remain on the property for the duration of the permit. No more than one (1) portable storage container shall be allowed per site.
10. When not attended containers shall be secured from entry by children and general public.
11. Hazardous material shall not be stored in these containers.
12. A seasonal portable container permit may be applied for during the months of October through December allowing up to five (5) storage containers per site. This permit and associated fees shall be required to be updated annually. All other requirements stated above must be met by all portable storage containers.
13. In residential districts, units shall be a minimum of ten (10) feet from any property line.

Sec. 12-5-3. Home occupations regulations.

- (a) Standards for controlling home occupations are set forth to minimize possible impacts on neighboring property owners within residential areas. These standards are intended to allow reasonable and comfortable enjoyment of adjacent and nearby property by their owners and by occupants of neighboring residential dwellings, while providing opportunities for the pursuit of home-based businesses.
- (b) Home occupations shall be permitted as an accessory use in all zoning districts provided that they comply with the following requirements:
 - (1) The residential character of the dwelling shall not be changed by said use;
 - (2) Such use shall be incidental and secondary to the main use of the premises, and shall not utilize floor area exceeding twenty (20) percent of the combined gross floor area of the dwelling unit and any accessory building(s) that are used for the home occupation (in no case shall the combined floor area utilized for a home occupation exceed five hundred (500) square feet);
 - (3) The occupation shall not employ more than one person who is not a member of the household in which the home occupation occurs;
 - (4) Not more than two (2) patron or business-related vehicles shall be present at one time, and the proprietor shall provide adequate off-street parking on the property where the use is located;
 - (5) The operation shall be conducted entirely within the dwelling and/or accessory structure and the hours of operation shall fall between 8:00 a.m. and 10:00 p.m.;
 - (6) One (1) commercial vehicle, capacity of one (1) ton or less (according to the manufacturer's classification), may be parked on the property in connection with the home occupation;

(7) The occupation activity shall not increase vehicular traffic flow beyond what normally occurs within a residential district, and shall not require regular and frequent deliveries by large delivery trucks or vehicles with a rated capacity in excess of one and one-half (1 ½) tons (according to the manufacturer's classification);

(8) The home occupation shall not generate noise, vibration, glare, fumes/odors, heat or electrical interference beyond what normally occurs within a residential district; and

(9) There shall be no public display of stock in trade upon the premises.

(c) Effect upon existing home occupations:

(1) Any home occupation that was legally in existence as of the effective date of this Ordinance and that is not in full conformity with the provisions herein shall be deemed a legal nonconforming use, provided that the home occupation use was not in violation of any other local, state or federal law or regulation on that date.

(2) Any home occupation that was legally in existence as of the effective date of this Ordinance and that conforms with (i.e., is not in violation of) the provisions herein shall be hereby authorized to continue.

Sec. 12-5-4. Off-street parking and loading requirements.

(a) Standards for off-street parking and loading requirements are set forth to reduce hazards to public safety, ensure efficient traffic flow, meet the currently adopted design criteria and ordinances of the City, and establish standards for alternative parking plans.

(b) The parking standards of this Section shall apply to all proposed development in all zoning districts, excluding the Central Business District, for the following:

(1) New structures;

(2) Changes in use;

(3) Substantial alterations to a structure, which create an increase in required parking of ten (10) percent or more in the number of existing parking spaces;

(4) A change in the building or parking facility which alters the pattern of pedestrian/vehicular interaction; or

(5) Construction, reconstruction, alteration or enlargement of a parking facility.

(c) Residential districts and uses (AG-Agricultural, RE-Residential Estate, RL-Residential Lake Lots, R1-One-Family Residential and R2-Two-Family Residential):

(1) All required off-street parking shall be located on the same site as the primary structure(s).

(2) All vehicle parking shall be paved to meet the currently adopted design criteria and ordinances of the City. All driveways and approaches to parking spaces shall be similarly paved to meet the currently adopted design criteria and ordinances of the City, except those located in the AG-Agricultural zoning district.

(3) No parking shall be permitted on grass, within designated landscaped areas, or on unimproved surfaces.

(4) Except as otherwise permitted herein, parking of heavy load vehicles shall be prohibited. This requirement shall not prohibit commercial vehicles from making deliveries in a residential district.

(5) Domestic and recreational vehicles, including boats, camper trailers, and utility trailers shall be stored off the street and shall not be located in required front yard building setbacks. The restrictions set forth herein shall not apply to the parking of a recreational vehicle on a street or alley immediately abutting the lot upon which the owner or operator of the vehicle resides, if such parking is solely for the purpose of or in connection with a planned trip, outing or vacation, commencing or ending on the same day of such departure or return, including any loading or unloading of persons and personal effects, or for the preparation of the vehicle in regards to such departure or return; provided, however, that such parking may not occur on more than three (3) consecutive days in any seven (7) day period.

(d) Multifamily residential district and uses (R3-Multifamily Residential):

(1) All required off-street parking shall be located on the same site as the primary structure(s).

(2) All vehicle parking shall be paved to meet the currently adopted design criteria and ordinances of the City. All driveways and approaches to parking spaces shall be similarly paved to meet the currently adopted design criteria and ordinances of the City.

(3) No parking shall be permitted on grass, within designated landscaped areas, or on unimproved surfaces.

(4) Except as otherwise permitted herein, parking of heavy load vehicles shall be prohibited. This requirement shall not prohibit commercial vehicles from making deliveries in a residential district.

(5) Domestic and recreational vehicles, including boats, camper trailers, and utility trailers shall be stored off the street and shall not be located in required front yard building setbacks. Moreover, multifamily developments are encouraged to designate specific areas for parking of domestic and recreational vehicles, including boats, camper trailers, and utility trailers.

(e) Nonresidential districts:

(1) All required off-street parking shall be located on the same site as the primary structure(s).

(2) All vehicle parking shall be paved to meet the currently adopted design criteria and ordinances of the City. All driveways and approaches to parking spaces shall be similarly paved to meet the currently adopted design criteria and ordinances of the City.

(3) No parking shall be permitted on grass, within designated landscaped areas, or on unimproved surfaces.

(4) Required off-street parking spaces shall not be used for the storage or sale of merchandise, nor shall required parking spaces be used for storage or display of vehicles for rent, sale, lease, or repair. Spaces proposed for such uses shall be similarly designed

to those specifications for required parking spaces and paved to meet the currently adopted design criteria and ordinances of the City.

(5) Refuse storage facilities placed in a parking lot shall not be located in a designated parking or loading space. Each refuse facility shall be located so as to facilitate pickup by refuse collection agencies.

(f) Parking space configuration, location, arrangement, size and circulation in all districts shall be constructed according to the currently adopted design standards and ordinances of the City.

(1) A required standard off-street parking space shall be at least nine (9) feet in width and eighteen (18) feet in length exclusive of any access drives, aisles, or columns.

(2) A compact off-street parking space shall be at least nine (9) feet in width and sixteen (16) feet in length, exclusive of any access drives, aisles, or columns. A maximum of ten (10) percent of the required parking may be designated for compact cars when approved as part of a detailed site development permit provided one (1) or more of the following conditions apply:

- a. When it is necessary to preserve the natural landscape and native trees; or
- b. Required parking exceeds fifty (50) spaces; or
- c. A shared parking plan has been approved by special exception.

The above conditions shall be reviewed by the Development Review Committee to ensure consistency with the intent of the City's adopted parking requirements.

Compact parking spaces shall be clearly marked as compact.

(3) A parallel parking space shall be at least eight (8) feet in width and twenty-two (22) feet in length.

(4) All spaces shall have a minimum vertical clearance of eight (8) feet.

(5) Parking spaces shall be permanently and clearly identified by stripes, buttons, tiles, curbs, barriers, or other approved methods. Non-permanent type marking, such as paint, shall be regularly maintained to ensure continuous clear identification of the space.

(6) All parking and loading spaces, and vehicle sales areas on private property shall have a vehicle stopping device (e.g., curb, wheel stop, etc.) installed so as to prevent parking of motor vehicles in any required landscaped areas, to prevent vehicles from hitting buildings, to protect public and/or private utility structures/facilities, and to prevent parked vehicles from overhanging a public right-of-way line, public sidewalk, or adjacent private property. An extra-wide walkway on private property may be permitted so as to allow encroachment of vehicle overhang while maintaining an unobstructed four (4) foot minimum walkway width. The requirement shall apply only where spaces are adjacent to the walks, right-of-way, and required landscaping.

(7) Parking shall not be permitted to encroach upon the public right-of-way in any case. For new construction only, all vehicle maneuvering shall take place on-site. No public

right-of-way shall be used for backing or maneuvering into or from a parking space, or for circulation within the parking lot.

(8) Handicapped accessible parking requirements shall be provided and constructed according to the currently adopted City codes, State and federal laws and the Americans with Disabilities Act (ADA).

a. Accessible parking spaces serving a particular building shall be located on the shortest accessible route of travel from adjacent parking to an accessible entrance. In parking facilities that do not serve a particular building, accessible parking shall be located on the shortest accessible route of travel to an accessible pedestrian entrance of the parking facility. In buildings with multiple accessible entrances with adjacent parking, accessible parking spaces shall be dispersed and located closest to the accessible entrances. In no case shall accessible parking be located more than two hundred fifty (250) feet from any such entrance.

b. Accessible parking spaces shall be at least 96 inches (2440 mm) wide. Parking access aisles shall be part of an accessible route to the building or facility entrance and shall comply with Section 4.3, Texas Accessibility Standards. Two accessible parking spaces may share a common access aisle (see Fig. 9b). Parked vehicle overhangs shall not reduce the clear width of an accessible route. Parking spaces and access aisles shall be level with surface slopes not exceeding 1:50 (2%) in all directions.

c. Each accessible parking space shall be designated as reserved by a vertically mounted or suspended sign showing the symbol of accessibility. Spaces complying with Section 4.1.2(5)(b) of the Texas Accessibility Standards shall have an additional sign "Van-Accessible" mounted below the symbol of accessibility.

1. Characters and symbols on such signs shall be located no less than sixty (60) inches above the ground, floor, or paving surface so they cannot be obscured by a vehicle parked in the space.

2. Signs located within an accessible route shall comply with Section 4.4.2 of the Texas Accessibility Standards.

3. Characters and symbols on overhead signs shall comply with Section 4.30.3 of the Texas Accessibility Standards.

d. The total number of accessible parking spaces shall be calculated as follows:

[TABLE INSET:]

Total Parking in Lot	Required Minimum Number of Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3

76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2 percent of total
1001 and over	20 plus 1 for each 100 over 1000

(g) Parking lot and off-street parking space design standards, in conjunction with specifications included in the currently adopted design standards and ordinances of the City , shall meet the following general requirements:

- (1) Driveway and parking areas must be graded to drain and be paved with an all-weather smooth surface adequate to support the anticipated loads and type of traffic that will use the facility.
- (2) Entrance and exit drives that extend into the site shall be designed to provide adequate queuing of vehicles to minimize traffic congestion within the site and adjoining public streets.
- (3) If projected volumes of traffic entering or leaving a development are likely to interfere with the projected peak traffic flow volumes on adjoining streets, the City Engineer may require the developer to provide additional right-of-way and paving in the form of a deceleration lane or turn lane. This determination shall be made at the time the site development permit is submitted for approval.
- (4) Vehicular access to non-residential uses shall not be permitted from alleys serving residential areas, and shall not be configured as “head-in” parking spaces that are accessed directly from the street.
- (5) The perimeter of all parking lots and driveways constructed for nonresidential and multifamily use shall be provided with concrete curbs or other acceptable methods approved by the City Engineer, to control traffic.
- (6) Fire lanes shall be provided in accordance with the currently adopted version of the International Fire Code and other applicable City ordinances.
- (7) Aisle widths shall be provided as follows:
 - a. For parking spaces laid out at an angle of ninety (90) degrees to an aisle, an aisle width of twenty-four (24) feet shall be required.
 - b. For parking spaces laid out at an angle of sixty (60) degrees to an aisle designed for two-way traffic, an aisle width of twenty-two (22) feet shall be required.

- c. For parking spaces laid out at an angle of sixty (60) degrees to an aisle designed for one-way traffic, an aisle width of nineteen (19) feet and five (5) inches shall be required.
- d. For parking spaces laid out at an angle of forty-five (45) degrees to an aisle designed for two-way traffic, an aisle width of twenty-one (21) feet shall be required.
- e. For parking spaces laid out at an angle of forty-five (45) degrees to an aisle designed for one-way traffic, an aisle width of seventeen (17) feet shall be required.
- f. For parking spaces laid out at an angle of thirty (30) degrees to an aisle designed for two-way traffic, an aisle width of twenty-one (21) feet shall be required.
- g. For parking spaces laid out at an angle of thirty (30) degrees to an aisle designed for one-way traffic, an aisle width of seventeen (17) feet shall be required.
- h. For parking spaces laid out parallel to an aisle designed for two-way traffic, an aisle width of twenty-four (24) feet shall be required.
- i. For parking spaces laid out parallel to an aisle designed for one-way traffic, an aisle width of twelve (12) feet shall be required.

Reductions to the minimum drive aisle width may be approved by the City Engineer (or his/her designee).

(8) Parking lot lighting shall be shielded so that it does not cast direct light beyond the property line. Parking lots shall be illuminated during night business hours.

(9) To ensure that all requirements set forth in this section are carried forward, it will be the responsibility of the owner of the parking area to adequately maintain the facility. All off-street parking areas shall be kept free of trash, debris, vehicle repair operation or display and advertising uses. At no time after initial approval of the parking area layout can changes be made in the location and number of provided spaces without approval of the City Engineer (or his/her designee).

(h) Requirements for the number of spaces are based on occupant loads established by the current adopted version of the Building Code. For any land use activity not otherwise identified herein, the number of spaces required shall be a number of spaces determined by the Director of Planning and Development to be reasonably necessary and consistent with the requirements set forth herein for comparable land use activities.

Except as provided herein, parking shall be provided at a ratio of one (1) parking space for every three (3) occupants plus employee parking.

(1) For Family Homes, Industrialized Housing, Manufactured Housing, Multiple Single-Family Dwellings (Townhouses), One-Family Dwellings and Two-Family Dwellings, two (2) enclosed spaces per dwelling, plus two (2) additional parking spaces per dwelling shall be provided on a paved driveway having a minimum length of twenty (20) feet. In addition to the aforementioned requirements, one (1) parking space per bedroom available for rent shall be required for Bed and Breakfast operations and Boarding Houses.

(2) For Community Homes, one (1) parking space per bedroom shall be required as set forth in the Texas Human Resource Code, Chapter 123.

(3) For Multifamily Dwellings, one and one-half (1.5) spaces per one (1) bedroom unit, two (2) spaces per two (2) bedroom unit, two and one-half (2.5) spaces per three (3) bedroom unit and (3) spaces per unit containing four (4) or more bedrooms shall be required. The average number of parking spaces for the total development shall be no less than two (2) spaces per dwelling unit.

(4) For Child Care Facilities, Elementary and Secondary Schools, one (1) parking space for every nine (9) occupants, plus employee parking shall be required.

(5) For Telemarketing Agencies, one (1) parking space per employee shall be required.

(6) For Light Manufacturing, Sand/Gravel/Caliche/Stone Sales (Storage), one (1) parking space for every five (5) occupants, plus employee parking shall be required.

(7) For Heavy Manufacturing, Transfer Stations, Landfill and Recycling Centers, one (1) parking space for every nine (9) occupants, plus employee parking shall be required.

Employee parking shall be provided based on one (1) space per employee on duty at any one time during any one (1) shift. If more than one (1) shift is required for the operation of the business or use, the number of employee spaces shall be based on the number of employees on duty during the shift requiring the largest number of employees.

(i) Calculation of spaces:

(1) In residential districts in which garage space is shown on the plan, the garage space may be considered in determining whether required parking has been met.

(2) In multi-family and nonresidential zoning districts, requirements for the number of parking spaces may result in a fractional parking space. For fractional parking spaces, a whole space meeting the specifications, as set forth in the currently adopted version of the City's Technical Construction Standards and Specifications and other applicable ordinances of the City, shall be provided.

(3) In determining the total number of parking spaces required for any building, each portion of the building may be considered separately by use, with the total number of spaces required for the entire building being equal to the sum of the totals of the number of spaces required for each individual portion of the building.

(j) Vehicle stacking requirements for drive-through facilities:

(1) Design and layout of stacking spaces shall be subject to the following standards:

- a. Stacking spaces shall be a minimum of nine (9) feet in width by twenty (20) feet in length.
- b. Stacking spaces shall not impede on-site or off-site traffic movements or movements into or out of off-street parking spaces.
- c. Stacking spaces shall be separated from other internal driveways by raised medians as determined by the City Engineer.

d. Stacking spaces shall be provided in excess of the space required to service the vehicle/customer.

(2) Minimum number of stacking spaces:

a. For car washes, kiosks (providing a service) and motor vehicle service, three (3) stacking spaces shall be required.

b. For office, professional service and retail sales, five (5) stacking spaces shall be required.

c. For restaurants, five (5) stacking spaces shall be required. An escape lane of at least eight (8) feet in width, with negotiable geometric design, from the beginning of the stacking lane to the first stop must also be provided.

(k) Off-street loading spaces or berths:

(1) Loading spaces or berths shall be required for all non-residential uses for the loading and unloading of merchandise and goods within or adjacent to the building in such a manner as to not obstruct the freedom of vehicular or pedestrian movement on the public right of ways.

(2) All drives and approaches shall be designed, in accordance with the City's Technical Construction Standards and Specifications and other applicable City ordinances, to provide adequate space and clearances to allow for off-street maneuvering of vehicles.

(3) Each required off-street loading space or berth shall be provided with a means of unobstructed ingress and egress to an alley or onto a public street wide enough to accommodate expected vehicles.

(4) Loading spaces or berths shall be a minimum of ten (10) feet in width by twenty-five (25) feet in length with fourteen (14) feet of vertical clearance. Particular consideration shall be given to the design and accommodation of the type of delivery vehicles generally associated with the proposed use of the property.

(5) The minimum number of off-street loading spaces or berths shall be as follows:

[TABLE INSET:]

Total Square Feet of GFA (gross floor area) in Structure	Minimum Required Spaces or Berths
0-10,000	0
10,001 - 50,000	1
50,001-100,000	2
Each additional 100,000	1 additional

(6) Loading docks shall be oriented away from public streets and, where adjacent to a residential district, shall be screened.

(7) No motor vehicle repair work or service of any kind shall be permitted in conjunction with loading facilities.

(l) Alternative parking plans may be presented to the Development Review Committee for consideration and recommendation of special exception. All submittals shall include, at a minimum, the size and type of the proposed development, the mix of uses (and their ratios), the anticipated rate of parking turnover and the anticipated peak parking and traffic loads of all uses. Factors considered in alternative parking plans:

(1) Reductions in the number of required parking spaces for progressive environmentally friendly parking plan design. All submitted requests shall include parking data, prepared and sealed by a registered engineer with transportation expertise, illustrating that the requirements of this Ordinance should be reduced for the specific development, provided that the reduction satisfies the intent of this Ordinance.

(2) Off-site parking. Required parking for convenience stores or convenience-oriented uses or handicapped accessible parking will not be considered.

a. Location. No off-site parking space shall be located more than three hundred (300) feet from the primary entrance of the use served (measured along public walkways). Off-site parking spaces shall not be separated from the use served by an Interstate or major thoroughfare right-of-way (as designed in the Thoroughfare Plan), unless a grade-separated pedestrian walkway is provided, or traffic control or remote parking shuttle bus service is provided.

b. Shared parking agreement. If an off-site parking area is not under the same ownership as the principal use served, a written agreement between the record owners shall be required. The owner of the off-site parking area shall enter into a written agreement in a form acceptable to the City Attorney, providing that the land comprising the parking area shall never be disposed of except in conjunction with the sale of the building which the parking area serves so long as the facilities are required; and that such agreement shall bind his/her heirs, successors and assigns; and that such agreement shall be signed by all parties and recorded in the offices of the County Clerk.

c. Off-site parking shall not be allowed for convenience stores, convenience-oriented uses or required handicapped accessible parking.

Sec. 12-5-5. Landscape/screening requirements.

(a) *Violations.* Any person who violates, neglects, or refuses to comply with any provisions of this Section, or any owner or general agent of a building or premises where a violation of any provision of this Section has been committed or exists, or the lessee or tenant of an entire building or entire premises where such violations have been committed or exist, or any contractor or craftsman who violates, neglects, allows to exist, or refuses to comply with any provisions of this Section, or the owner, general agent, contractor, lessee or tenant of any part of the building in which such violation has been committed or exists, or who commits, takes part in or assists in such violations, shall be in violation of this Section.

(b) *Purpose.* The purpose of this Section is:

- (1) To provide quality visual appeal to buildings and paved areas through the use of trees, shrubs, and plants.
- (2) To encourage areas of established native trees and shrubs to be preserved within a project development site and to properly protect preserved areas during construction.
- (3) To preserve healthy environmental conditions by providing shade, air purification and oxygen generation, groundwater recharge, storm water runoff retardation, and noise, glare and heat abatement through preservation of areas of native trees and shrubs and through the installation of new landscape.
- (4) To buffer uncomplimentary land uses.
- (5) To require timely replacement of landscape components lost after installation.

(c) *Applicability.* Landscaping, consisting of trees, shrubs, ground cover, and screening shall be required, in accordance with this Section, for all new construction. All plans submitted in support of a building permit shall include a landscape plan, which shall include all elements in accordance with the specifications on file in the offices of Planning and Development.

(d) *General standards.* The following criteria shall apply to all landscaping materials and installations:

(1) *Quality.* All trees and shrubs used in conformance with the provisions of this Section shall have well developed leaders and tops and roots characteristic of the species, cultivar or variety and shall show evidence of proper nursery pruning. All plant materials shall be free of insects, diseases, mechanical injuries and other objectionable features at the time of planting.

(2) *Coverage.* Grass, ground cover, shrubs and other living landscaping material shall be used to cover all ground. Landscaping material, such as mulch, bark, and decorative rock, can be incorporated into a landscape plan, where appropriate.

(3) *Trees.* All new trees shall be of a species common to this area of North Texas, in accordance with the tree list on file in the offices of Planning and Development. Caliper measurements shall be taken at a point six (6) inches above grade. Trees shall have the following minimum characteristics:

- a. Canopy trees grow to a minimum height of twelve (12) feet at maturity. All canopy trees shall have a minimum caliper of two (2) inches at time of planting.
- b. Understory trees shall have a maximum height of (30) thirty feet at maturity. All understory trees shall have a minimum caliper of one and one-half (1 ½) inches at time of planting.
- c. Ornamental trees shall have a minimum caliper of one (1) inch at time of planting.
- d. Evergreen or conifer trees shall have a minimum height of twelve (12) feet at maturity. All evergreen or conifer trees shall be at least four (4) feet in height at time of planting.

(4) *Shrubs and hedges.* Shrubs shall be a minimum of eighteen (18) inches in height at time of planting. Hedges shall be planted and maintained to form a continuous,

unbroken, visual screen, which will be a minimum of three (3) feet in height within one (1) year of planting.

(5) *Ground cover.* Ground covers used in lieu of grass shall be planted in such a manner as to present a finished appearance and reasonably complete coverage.

(6) *Grass.* Grass may be sodded, plugged, sprigged or seeded. In swales, berms, or other areas subject to erosion, solid sod shall be used.

(e) *One and Two-family residential landscaping requirements.* Residential landscape areas shall contain (2) two canopy, understory, ornamental or evergreen trees and eight (8) shrubs per one hundred (100) linear feet, or portion thereof, of front yard street frontage. Where this street frontage is less than fifty (50) linear feet, only one (1) canopy, understory, ornamental or evergreen tree and four (4) shrubs are required.

(f) *Multifamily and non-residential landscaping requirements.* Landscape plans shall be prepared by an architect, landscape architect, land surveyor or engineer, licensed in the state of Texas. The City Manager may, upon receipt of a favorable recommendation by the DRC, waive the requirement of preparation by a licensed professional. The interior and perimeter of parking lots and vehicular use areas, shall be landscaped in accordance with the following criteria:

(1) Interior landscaping:

- a. A minimum of two hundred fifty (250) square feet of area for every ten (10) parking spaces shall be devoted to living landscaping, which includes grass, ground cover, plants, shrubs and trees.
- b. Where a lot has frontage on more than one street, the required interior landscaping shall be distributed proportionately to the number of parking spaces located between each building line and its adjacent street line. These plantings shall be grouped in such a way as to provide visual relief to those building elevations, which are viewed by the general public.
- c. Interior landscape areas shall be protected from vehicular encroachment or overhang by way of curbs or other means approved by the City Engineer.
- d. There shall be a minimum of one (1) canopy, understory, or ornamental tree planted for each fifteen (15) parking spaces, or fraction thereof. For every tree planted, four (4) shrubs shall be planted. The planted areas shall be sodded or mulched.
- e. Interior planting areas shall be a minimum of one hundred (100) square feet for each understory tree and two hundred (200) square feet for each canopy tree dimensioned in such a way as to provide a suitable area for planting. Interior planting areas shall be located within seventy-five (75) feet of any parking space.

(2) Perimeter landscaping:

- a. A minimum of one (1) canopy tree, understory, ornamental or evergreen tree and four (4) shrubs shall be required as perimeter landscaping per one hundred (100) linear feet of street frontage.

- b. Perimeter landscaping shall be located within the front and side yard setback between each building line and its adjacent street line.
 - c. When pre-approved by the City Manager, and where public easements or other conditions, not under the control of the developer, would not allow for the planting of trees, each required tree may be replaced by eight (8) shrubs or eight (8) perennial bed plantings, each a minimum of one-gallon size at planting.
 - d. Where a perimeter landscape area is less than fifty (50) linear feet, only one canopy, understory, ornamental or evergreen tree and two (2) shrubs is required. In lieu of the tree installation, a total of four (4) shrubs may be substituted. Required trees and shrubs may be clustered to allow for the most effective use of landscaping.
 - e. Perimeter planting areas shall be a minimum of one hundred (100) square feet for each understory tree and two hundred (200) square feet for each canopy tree dimensioned in such a way as to provide a suitable area for planting.
 - f. All other disturbed areas shall be landscaped with grass or other ground cover.
- (3) Whenever an off-street parking or vehicular use area abuts a public right-of-way, a perimeter landscape area at least five (5) feet in depth shall be maintained between the abutting right-of-way and the off-street parking or vehicular use area.
- (4) Necessary access ways from the public right-of-way shall be permitted to pass through all landscaping.
- (5) Areas used for parking or vehicular storage which are under, on, or within buildings are exempt from these standards.
- (g) *Buffering and screening requirements.*
- (1) All plans submitted as part of a building permit or conditional use permit application shall include a detailed drawing of applicable screening methods in accordance with this Section. No buffer or screening requirement located on an adjacent property may be utilized as a portion of any required buffer or screen.
- a. Trash bins and storage areas. Trash bins and storage areas located in multi-family residential and non-residential zoning districts shall be enclosed with either a permanent wall or solid fence.
 - b. Parking lot screening on rear and side yards. Any off-street parking area providing space for five (5) or more vehicles shall be effectively screened on any side or rear yard which abuts a residentially zoned lot.
 - c. At the time of development of property zoned C1, C2, or I, a buffer or screen shall be provided along all common property lines between the commercial development and any residential zoning district.
 - d. Screening fences/walls shall be placed such that they do not impede visibility for vehicles entering or exiting the property.

(2) A screen shall consist of a screen wall, fence, earth berm, or densely planted evergreens to effectively restrict seventy-five (75) percent of the view to adjoining property to a height of not less than eight (8) feet.

(3) For the purposes of this Section the following terms shall be deemed to have the meaning indicated below:

Berms. A screen constructed of earthen materials, which shall not exceed a slope steeper than two and one half (2 ½) feet horizontal to one (1) foot vertical. A berm shall be so designed that drainage from said slope shall be directed away from paved areas and sidewalks and shall be sodded and landscaped as necessary to provide topsoil stabilization. Berms shall not exceed eight (8) feet in height.

Fence, open. An open weave or mesh type fence, constructed of wood or other approved materials, which shall be not less than six (6) feet nor more than eight (8) feet in height.

Fence, solid. A fence, constructed of wood or other approved material, which shall not be less than six (6) feet nor more than eight (8) feet in height.

Retaining wall. A structure constructed or erected between lands of different elevations. A retaining wall, which directly abuts and faces a residential zoning district, shall not have an exposed wall face greater than eight (8) feet in height. A retaining wall, which directly abuts and faces any zoning district, other than residential, shall not have an exposed wall face greater than twelve (12) feet in height. When special property conditions exist, which make it unfeasible to meet these requirements, applicants may present alternative recommendations to the DRC for consideration. The recommendation of DRC shall be presented to the City Manager for consideration. No permit for any alternative method shall be issued without final approval from the City Manager.

Walls. A screen consisting of concrete, stone, brick, tile or other approved solid masonry material, which shall be not less than six (6) feet nor more than eight (8) feet in height.

(4) In one and two-family residential zoning districts, no fence or wall shall be erected in any front yard or side yard which is adjacent to a public street, except decorative fences or walls less than five (5) feet in height with a maximum opacity of fifty (50) percent.

(5) In nonresidential and multi-family zoning districts, no fence or wall shall be erected in any front yard or side yard which is adjacent to a public street, except decorative fences or walls less than eight (8) feet in height with a maximum opacity of fifty (50) percent.

(6) Chain link, woven wire mesh or other similar materials are not considered decorative fencing.

(7) Any fence or wall located to the rear of the minimum required front yard line or side yard line adjacent to a public street shall not exceed eight (8) feet in height.

(8) Special purpose fencing, such as fencing around tennis courts, may be permitted by the Director of Planning and Development (or his/her designee) where applicable.

(9) No barbed wire or electrical fencing shall be allowed except as used for farm or ranching purposes on undeveloped land over one (1) acre in size.

(10) No fence or wall shall be erected, moved, added to, or structurally altered without a permit issued by the City of Weatherford's Building Official (or his/her designee).

(h) *Exceptions.*

(1) *Sight triangle.* On a corner lot in any district, no planting, berm, fence or wall shall be placed in such a manner as to impede vision within the intersection clear sight triangle as shown in the City of Weatherford Design Criteria for Public Improvement Projects, on file in the office of the City Engineer.

(2) *Special circumstances.* When circumstances prevent appropriate installation of landscaping to satisfy these requirements, the City Manager may approve an application, upon review and recommendation from the DRC providing an alternative method of compliance.

(3) *Exemption for property in Central Business District.* Due to the unique nature of those properties in the CBD, the City Manager shall have full authority to exempt developments from the requirements of this Section.

(i) *Unauthorized removal.* No required screening, landscaping, or landscape buffer shall be removed from any multi-family or non-residential property without first obtaining a permit, by submitting and obtaining approval of a landscaping plan, which provides for replacement conforming to all provisions of this Section.

(j) *Security, maintenance.*

(1) *Landscaping to be in place prior to issuance of Certificate of Occupancy (CO).* All landscaping and screening material, living and nonliving, shall be healthy and in place prior to issuance of the CO. If seasonal limitations prevent planting, and if security, as described herein, is provided, a CO may be issued.

(2) *Security required.* Security in the form of cash, a performance bond, cashier's check, or irrevocable letter of credit, in an amount equal to the cost of the landscaping and installation costs shall be provided by the permittee, prior to issuance of the CO. Upon completion of the landscaping, with final approval by the City Manager, the security will be returned to the permittee. Should the permittee fail to complete the required landscaping as required by the plan submitted and approved, the City shall use the security to complete the landscaping as required by the plan. Any excess from the security not used to complete the landscaping shall be returned to the permittee.

(3) *Maintenance.*

a. The owner of the property shall be responsible for maintaining the landscaping required by this Section. Plant material shall be maintained in a healthy and growing condition that is appropriate for the season of the year. Plant materials, which die, shall be replaced with healthy plant material of similar variety and meeting the size requirements contained herein.

b. The developer, his/her successor and/or subsequent owners and their agents shall be responsible for the continued maintenance of landscaping.

- c. Plant materials, which exhibit evidence of insects, pests, disease, and/or damage shall be appropriately treated, and dead plants properly removed and replaced within the next planting season.
 - d. All landscaping shall be subject to periodic inspection.
 - e. Should landscaping not be installed, maintained and replaced as needed to comply with the approved plan, the owner and his/her agent shall be considered in violation of the terms of the building permit and this Section.
 - f. No open burning of brush, timber and/or vegetation, except as permitted by the Weatherford Fire Department, shall be allowed.
 - g. All required landscaped areas located within all multi-family and non-residential zoning districts shall be irrigated with an in ground, automated sprinkler or drip irrigation system that use rain and freeze sensors.
 - h. All required landscaped areas located within any one-family or two-family residential zoning district shall be irrigated with an in ground sprinkler or drip irrigation system that use rain and freeze sensors, or have other irrigation means available, such as a water faucet or bibcock.
- (k) *Exemption of rights-of-way and utility easements.* Public road rights-of-way and utility easements are exempt from the provisions of this Section.
- (l) *Existing developed areas.* As of the effective date of this Ordinance, all property currently under development and not in compliance with the provisions of this Section, shall be considered legal nonconforming and allowed to continue, so long as no building permit is issued for enlargement of a structure. At the time that such a permit is issued, the following requirements shall be met:
- (1) No additional landscaping areas shall be required, if existing buildings and structures are replaced with new buildings or structures, with the same total floor space, provided a building permit for replacement is applied for, within one (1) year after the existing buildings are removed.
 - (2) No additional landscaping areas shall be required, if a use expands into or is established in existing floor area that was previously unfinished or otherwise not available for occupancy.
 - (3) No additional landscaping areas shall be required if:
 - a. The lot is enlarged by less than twenty five (25) percent of the existing lot, or by less than twenty thousand (20,000) square feet, whichever is greater; or
 - b. The new floor area is enlarged by less than twenty five (25) percent of the existing floor area or by less than two thousand (2,000) square feet, whichever is greater.
 - c. If the enlargement exceeds a or b of this Section, one hundred (100) percent of the landscape designated by the zoning district is required.
- (m) *Approved plant list.* Approved plants shall be those identified in the Texas SmartScape database, managed by Texas A&M University.

Sec. 12-5-6. Performance standards.

In all zoning districts, any use indicated in the permitted use list shall conform in operation, location, and construction to the performance standards as administered by county, state and/or federal agencies. All uses, including those that may be allowed in PD Planned Development zoning districts or by Conditional Use, unless expressly provided for otherwise, shall conform in operation, location, and construction to appropriate performance standards for noise, smoke, and particulate matter, odorous matter, fire, or explosive hazard material, toxic and noxious matter, vibration, and glare.

All federal and state pollution, noise, and requirements for toxic waste disposal shall be observed.

(a) *Noise.* At no point at the bounding property line of any use shall the sound pressure level of any operation or plant exceed the decibel limits specified in the octave band groups designated in the following table:

(1) Maximum permissible daytime* octave band:

TABLE INSET:

Decibel Limits at the Bounding Property Line**									
Octave Band	37	75	150	300	600	1200	2400	4800	A
(cps)	75	150	300	600	1200	2400	4800	9600	Scale
Decibel Band Limit (db re 0.0002 Microbar	86	76	70	65	63	58	55	53	65

Note -- "A scale" levels are provided for monitoring purposes only and are not applicable to detailed sound analysis.

* "Daytime" shall refer to the hours between sunrise and sunset on any given day.

** "Bounding property line" shall be interpreted as being at the near side of any street, alley, stream, or other permanently dedicated open space from the noise source when such open space exists between the property line of the noise source and adjacent property. When no such open space exists, the common line between two parcels of property shall be interpreted as the bounding property line.

(2) The following corrections shall be made to the table of octave band-decibel limits in determining compliance with the noise level standards:

- a. When noise is present at nighttime, subtract (-7db.)
- b. When noise contains strong pure-tone components or is impulsive, that is when meter changes at ten (10) decibels or more per second, subtract (-7db.)
- c. When noise is present for not more than the following, add (+10db):

- d. Two (2) minutes in any two (2) hour period
 - e. One (1) minute in any one (1) hour period
 - f. Ten (10) minutes in any two (2) hour period
 - g. Twenty (20) minutes in any four (4) hour period
- (3) Measurement of noise shall be made with a sound level meter on octave band analyzer meeting the standards prescribed by the American Standards Association.
- (4) Exemptions. The following uses and activities shall be exempt from the noise level regulations herein specified.
- a. Noises not directly under control of the property user.
 - b. Noises emanating from construction and maintenance activities between the hours of 7:00 a.m. and 7:00 p.m. (daylight hours).
 - c. Noises of safety signals, warning devices and emergency pressure relief valves.
 - d. Transient noise of moving sources such as automobiles, trucks, and airplanes.
- (b) *Smoke and particulate matter.* No operation or use shall cause, create, or allow the emission for more than three (3) minutes in any one hour of air contaminants which at the emission point or within the bounds of the property are:
- (1) Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke or contaminants in the standard prescribed by the American Society for Testing Materials (ASTM) except that, when the presence of uncombined water is the only reason for failure to comply or when such contaminants are emitted inside a building which prevents their escape into the atmosphere, the standards specified in A.S.T.M.D. 3-1302-1 and 3-1302-2 shall not apply.
 - (2) The emission of particulate matter from all sources shall not exceed one half (0.5) pounds per acre of property within the plant site per any one (1) hour.
 - (3) Open storage and open processing operations, including on-site transportation movements which are the source of wind or air borne dust or other particulate matter; or which involves dust or other particulate air contaminants, generating equipment such as used in paint spraying, grain handling, sand or gravel processing or storage or sand blasting shall be so conducted that dust and other particulate matter so generated are not transported across the boundary line of the tract on which the use is located in concentrations exceeding four (4) grains per one thousand (1,000) cubic feet of air.
- (c) *Odorous matter.*
- (1) No use shall be located or operated which involves the emission of odorous matter from a source of operation where the odorous matter exceeds the odor threshold at the bounding property line or any point beyond the tract on which such use or operation is located.
 - (2) The odor threshold as herein set forth shall be determined by observation by a person or persons. In any case, where uncertainty may arise or where the operator or owner of an

odor emitting use may disagree with the enforcing officer or where specific measurement of odor concentration is required, the method and procedures specified by American Society for Testing Materials A.S.T.M.D. 1391-57 entitled "Standard Method for Measurement of Odor in Atmospheres" shall be used and a copy of A.S.T.M.D. 1391-57 is hereby incorporated by reference.

(d) *Fire or explosive hazard material.*

(1) No use involving the manufacture or storage of compounds or products which decompose by detonation shall be permitted except that chlorates, nitrates, perchlorates, phosphorus, and similar substances and compounds in small quantities for use by industry, school laboratories, druggists or wholesalers may be permitted when approved by the Fire Chief of the City of Weatherford.

(2) The storage and use of all flammable liquids and materials such as pyroxylin plastics, nitrocellulose film, solvents, and petroleum products shall be permitted only when such storage or use conforms to the standards and regulations of the City of Weatherford Fire Code or are approved by the Fire Chief.

(e) *Toxic and noxious matter.*

No operation or use shall emit a concentration across the bounding property line of the tract on which such operation or use is located of toxic or noxious matter which will exceed ten (10) percent of the concentration (exposure) considered as the threshold limit for an industrial worker as such standards are set forth by the Texas State Department of Health in "Threshold Limit Values Occupational Health Regulation No. 3," a copy of which is hereby incorporated by reference.

(f) *Vibration.*

No operation or use shall at any time create earthborne vibrations which when measured at the bounding property line of the source operation exceed the limits of displacement set forth in the following table in the frequency ranges specified:

TABLE INSET:

Frequency Cycles Per Second	Displacement in Inches
0 to 10	0.0010
10 to 20	0.0008
20 to 30	0.0005
30 to 40	0.0004
40 and over	0.0003

(g) *Lighting and glare standards.*

Standards for controlling lighting and glare are set forth to reduce the annoyance and inconvenience to property owners and traffic hazards to motorists. These standards are intended to allow reasonable enjoyment of adjacent and nearby property by their owners and occupants while requiring adequate levels of lighting of parking areas.

(1) *Nonresidential site lighting and glare standards.*

- a. Any use shall be operated so as not to produce obnoxious and intense glare or direct illumination across the bounding property line from a visible source of illumination of such intensity as to create a nuisance or detract from the use or enjoyment of adjacent property. All outside lights shall be made up of a light source and reflector so selected that acting together, the light beam is controlled and not directed across any bounding property line above a height of three feet. The allowable maximum intensity measured at the property line of a residential use in a residential district shall be 0.25 foot candles. Light poles shall be placed on the site a setback equal to its height from all adjacent residential property.
- b. All off-street parking areas for non-residential uses in non-residential districts that are used after dark shall be illuminated beginning one-half hour after sunset and continuing throughout the hours of business operation. If only a portion of a parking area is offered for use after dark, only that part is required to be illuminated in accordance with these standards. However, the portion offered for use shall be clearly designated. Lighting within the parking areas shall meet the following minimum requirements:

1. *Intensity.*

- i. Minimum at any point on the parking area surface to be at least 0.6 foot candles initial, and at least 0.3 foot candles maintained or one-third of the average, whichever is greater.
- ii. Illumination shall not exceed an average of one foot candle at ground level and shall distribute not more than 0.25 foot candles of light upon any adjacent residentially zoned area.

2. *Height.* The maximum height for poles with lights is thirty-five (35) feet.

(2) *Residential lighting and glare standards.*

Residential lighting for security and night recreation use is permitted in all residential districts provided the following requirements are met:

- a. Direct lighting over ten (10) feet in height is shielded from adjacent property.
- b. No light source shall exceed twenty-five (25) feet in height. Street lights and other traffic safety lighting are exempt from this standard.
- c. Lighting shall not directly shine on adjacent dwellings.

(3) *Luminaires.* Light sources shall be of a down-light type, indirect, diffused, or shielded type luminaires installed and maintained so as to reduce glare effect and consequent interference with use of adjacent properties and boundary streets. Bare bulbs

above seventy-five (75) watts and strings of lamps are prohibited, except for temporary lighting as provided in 46.5 below.

(4) *Special or temporary lighting--low wattage.* Bare bulbs or strings of lamps are prohibited, except during holidays special lighting shall be permitted for a maximum time period of forty-five (45) days for each holiday used.

Sec. 12-5-7. Sign regulations.

(a) *Statement of purpose.* The City Council finds that signs provide an important medium through which persons may convey a variety of messages. Left completely unregulated, however, signs can become a threat to public safety as a traffic hazard and a detriment to property values and to the city's general public welfare, as well as create an aesthetic nuisance. This Section is intended to provide such regulation as will minimize the harmful effects of signs upon the health, safety and welfare of the general public and economic values in the community as well as the attractive appearance and natural beauty of the community. This Section is intended to constitute a comprehensive system of reasonable, effective, consistent, content neutral and nondiscriminatory sign standards and requirements. These regulations are intended to apply to all new signs and to provide for the elimination of all existing signs made nonconforming by this Ordinance, as soon as it is fair and reasonably feasible. The purposes of these regulations also include the following:

- (1) To promote the safety of persons and property by providing that signs do not create a hazard due to collapse, fire, collision, decay or abandonment, do not obstruct fire fighting or police surveillance, and do not create traffic hazards by confusing or distracting motorists, or by impairing the driver's ability to see pedestrians, other vehicles, or traffic signs.
- (2) To stabilize and reinforce property values to protect private and public investment.
- (3) To promote open space and improve the attractiveness and scenic beauty of the community which is considered to be important to the tourist industry and provides an economic base for the City and to encourage a concern for the visual environment which makes the City a more desirable place to live, work, and visit.
- (4) To control the quality of materials, construction, electrification and maintenance of all signs.
- (5) To lessen hazardous situations, confusion and visual clutter caused by proliferation, improper placement, illumination, animation and excessive height, area and bulk of signs which compete for the attention of pedestrian and vehicular traffic.
- (6) To balance the right to convey messages through signs and to protect the public's right against the unrestricted proliferation of signs.
- (7) To insure the fair and consistent enforcement of sign regulations.
- (8) To promote the stated purposes of the International Building Code, as adopted and modified by the City, which are expressly incorporated herein.

(9) Except to the extent permitted by applicable federal and state law, nothing herein is intended to in any way preempt any federal or state law requirements regarding signs or to exempt any person or entity from compliance therewith.

(b) *Applicability.* The standards and procedures of this Section shall apply to all land within the City and to all land within the extraterritorial jurisdiction of the City. Regulations applicable to signs in residentially zoned districts shall be applicable to properties of agricultural and residential use in the extraterritorial jurisdiction. Regulations applicable to nonresidential zoning districts shall be applicable to properties of nonresidential use located in the extraterritorial jurisdiction. The provisions of this Section shall apply to permittees, owners, agents and persons having the beneficial use of a sign and shall also apply to the owner(s) of the land or structures upon which a sign is located and to the person(s) erecting a sign.

(c) *Administration.* The provisions of this Section shall be administered and enforced by the Director of Planning and Development (or his/her designee).

(d) *Definitions.* For purposes of this Section of the Zoning Ordinance the following words, terms and phrases shall have the meanings indicated. Definitions of other terms used within this Section may be found elsewhere in the Zoning Ordinance. Words, terms and phrases not defined herein or elsewhere in the Zoning Ordinance shall be construed to have the meaning given by common and ordinary use, and shall be interpreted within the context of the sentence or section in which they appear.

Abandoned sign. A sign structure that has ceased to be used, and the owner intends no longer to have used, for the display of sign copy, or as otherwise defined by state law.

A-frame sign. A portable sign that is typically constructed or shaped in the form of the letter "A".

Alter. To change the face, size, dimensions, shape or outline, or type of sign.

Animated sign. A sign employing actual motion, the illusion of motion, or having alternating electronic data, messages and/or control components. Animated signs, which are differentiated from changeable signs as defined herein, include the following types:

(1) *Electrically activated.* Animated signs producing the illusion of movement by means of electronic, electrical, or electro-mechanical input and/or illumination capable of simulating movement through employment of the characteristics of one or both of the classifications noted below:

a. *Flashing.* Animated signs or animated portions of signs whose illumination is characterized by a repetitive cycle in which the period of illumination is either the same as or less than the period of non-illumination. For the purposes of this ordinance, flashing will not be defined as occurring if the cyclical period between on-off phases of illumination exceeds four (4) seconds.

b. *Patterned illusionary movement.* Animated signs or animated portions of signs whose illumination is characterized by simulated movement through alternate or sequential activation of various illuminated elements for the purpose of producing repetitive light patterns designed to appear in some form of constant motion.

(2) *Environmentally activated.* Animated signs or devices motivated by wind, thermal changes, or other natural environmental input. This includes, but is not limited to, spinners, pinwheels, pennant strings, and/or other devices or displays that respond to naturally occurring external motivation.

(3) *Mechanically activated.* Animated signs characterized by repetitive motion and/or rotation activated by a mechanical system powered by electric motors or other mechanically induced means.

Architectural projection. Any projection that is not intended for occupancy and that extends beyond the face of an exterior wall of a building, but that does not include signs as defined herein. See also “awning”; “backlit awning”; and “canopy, attached and free-standing.”

Awning. An architectural projection or shelter projecting from and supported by the exterior wall of a building and composed of a covering of rigid or non-rigid materials and/or fabric on a supporting framework that may be either permanent or retractable, including such structures which are internally illuminated by fluorescent or other light sources.

Awning sign. A sign displayed on or attached flat against the surface or surfaces of an awning.

Backlit awning. An awning with a translucent covering material and a source of illumination contained within its framework.

Banner sign. A sign utilizing a banner as its display surface.

Billboard. See “off-premise sign” and “outdoor advertising sign.”

Building elevation. The entire side of a building, from ground level to the roofline, as viewed perpendicular to the walls on that side of the building.

Bulletin board. A permanent sign that identifies an institutional use of the premise of which said sign is located and that contains the name of the institution and general announcements of events or activities occurring at the institution, or similar messages.

Canopy, attached. A multisided overhead structure or architectural projection supported by attachments to a building on one or more sides and either cantilevered from such building or also supported by columns at additional points. The surface(s) and/or soffit of an attached canopy may be illuminated by means of internal or external sources of light. See also “marquee.”

Canopy, free-standing. A multisided overhead structure supported by columns, but not enclosed by walls. The surface(s) and/or soffit of a free-standing canopy may be illuminated by means of internal or external sources of light.

Canopy sign. A sign affixed to the visible surface(s) of an attached or free-standing canopy.

Changeable sign. A sign with the capability of content change by means of manual or remote input, including signs which are:

- (1) *Electrically activated.* Changeable sign whose message copy or content can be changed by means of remote electrically energized on-off switching combinations of alphabetic or pictographic components arranged on a display surface. Illumination

may be integral to the components, such as characterized by lamps or other light-emitting devices; or it may be from an external light source designed to reflect off the changeable component display. See also “electronic message sign or center.”

- (2) *Manually activated.* Changeable sign whose message copy or content can be changed manually.

Clear sight triangle. An area free of all obstructions to the view of drivers approaching an intersection.

- (1) Driveway clear sight triangle shall mean the clear sight area required at the intersection of a driveway or other entrance with a street or highway. The driveway clear sight triangle shall measure fifteen (15) feet from and along the point of intersection of each side of the driveway or other entrance with the street or highway and fifteen (15) feet from and along the intersected street.

- (2) Intersection clear sight triangle shall mean the clear sight area required at the intersection of one street or highway with another street or highway. The intersection clear sight triangle shall measure forty (40) feet from and along the point of intersection of each of the intersecting streets or highways.

Combination sign. A sign that is supported partly by a pole and partly by a building structure.

Commercial message. The principal message of a commercial sign.

Commercial sign. A sign that has as its principal message the advertisement, promotion, identification or location of a product, service, business, institution or person, or that relates to the sale, exchange or availability of merchandise, or other activity for private benefit or gain.

Construction sign. Signs temporarily erected during construction to inform the public of the developer, contractors, architects, engineers, the nature of the project or anticipated completion dates.

Copy. Those letters, numerals, figures, symbols, logos, and graphic elements comprising the content or message of a sign, excluding numerals identifying a street address only.

Development complex sign. A free-standing sign identifying a multiple-occupancy development, such as a shopping center or planned industrial park, which is controlled by a single owner or landlord. No business identification shall be permitted on a development complex sign.

Dilapidated or deteriorated condition. Dilapidated or deteriorated condition shall include, but not be limited to, instances where:

- (1) Elements of the surface or background can be seen, as viewed from a normal viewing distance (i.e., the intended viewing distance), to have portions of the finished material or paint flaked, broken off, missing and/or otherwise not in harmony with the rest of the surface; or
- (2) The structural support or frame members are visibly bent, broken, dented or torn; or

- (3) The sign panel is visibly cracked or, in the case of wood and similar products, splintered in such a way as to constitute an unsightly or harmful condition; or
- (4) The sign and/or its elements are twisted or leaning or at angles other than those at which it was originally erected (such as may result from being blown by high winds or from the failure of a structural support); or
- (5) The message or wording can no longer be clearly read by a person with normal eyesight under normal viewing conditions; or
- (6) The sign and/or its elements are not in compliance with applicable requirements of the City's Building Code, Electrical Code, and/or other applicable adopted City codes.

Directional sign. Any sign that is designed and erected for the purpose of providing on-site direction and/or orientation for pedestrian or vehicular traffic.

Double-faced sign. A sign with two (2) faces, back to back.

Electric sign. Any sign activated or illuminated by means of electrical energy

Electronic message sign or center. An electrically activated changeable sign whose variable message capability can be electronically programmed.

Erect. To build, construct, alter, attach, hang, place, suspend, affix, repair, display, relocate, or maintain any sign, and shall also include the painting of signs on the exterior surface of a building or structure.

Exterior sign. Any sign placed outside a building.

Face panel or surface. A surface(s) of the sign upon, against or through which the message is displayed or illustrated on the sign.

Fascia sign. See "wall or fascia sign."

Flag. A fabric, banner or bunting containing distinctive colors, patterns, words, emblems and/or insignia which is used as a symbol for a government, political subdivision or some other professional, religious, educational or nonprofit entity.

Flashing sign. See "animated sign, electrically activated."

Framework. A support structure that meets all existing wind and load requirements as stated in applicable City codes and ordinances, and which is designed to secure a banner or an interchangeable sign on any or all sides.

Free-standing sign. A sign principally supported by a structure affixed to the ground, and not supported by a building, including signs supported by one or more columns, poles or braces placed in or upon the ground.

Frontage, building. The length of an exterior building wall or structure of a single premise oriented to the public way or other properties that it faces.

Frontage, property. The length of the property line(s) of any single premise along either a public way or other properties on which it borders.

Garage sale sign. Any temporary, promotional sign for the occasional (i.e., not on-going) sale of personal household goods, typically displayed in a residential area or on the property of a non-profit organization.

Gross floor area (GFA). A structure's total floor area designed for occupancy and use, including basements, mezzanines and upper floors as measured from the centers of outside walls, excluding warehouse, storage and utility rooms.

Ground sign. See "free-standing sign."

Illuminated sign. A sign characterized by the use of artificial light, either projecting through its surfaces(s) (internally illuminated); or reflecting off its surfaces(s) (externally illuminated).

Interior sign. Any sign placed within a building, but not including "window signs" as defined by this Ordinance. Interior signs, with the exception of window signs as defined, are not regulated by this Section.

Logo. A symbol, graphic, trademark or emblem commonly associated with or representing a specific entity, product or concept.

Mansard. An inclined decorative roof-like projection that is attached to an exterior building façade.

Marquee. See "canopy, attached."

Marquee sign. See "canopy sign."

Menu board. A free-standing sign that advertises the menu items available, and which has no more than twenty (20) percent of the total area for such a sign utilized for business identification.

Mobile sign. See "portable sign."

Model home sign. A sign that is used to advertise a specific builder's home as an example of the type of residential structures that may be found within a residential development.

Multiple-faced sign. A sign containing three (3) or more faces.

Municipally owned sign. A sign owned and/or maintained by the City which identifies an entrance into the City, a place of interest within the City, a City-sponsored event, or any municipally owned site or facility. A municipally owned sign does not include traffic or street identification/name signs.

Non-commercial sign. A sign that does not have as its principal message the advertisement, promotion, identification or location of a product, service, business, institution or person, or that does not relate to the sale, exchange or availability of merchandise, or other activity for private benefit or gain; and that is not a commercial sign.

Nonconforming sign. A sign that was lawfully installed in compliance with all City codes and ordinances that were applicable at the time of installation, but that does not currently comply with the provisions of this Section (and/or other City codes or ordinances and any amendments thereto).

Non-structural trim. A retainer, batten, capping, nailing strip, latticing, platform or other similar trim component that is attached to the sign or its structure.

Off-premise sign. See “outdoor advertising sign.”

On-premise sign. A sign erected, maintained or used in the outdoor environment for the purpose of the display of messages appurtenant to the use of, products sold on, or the sale or lease of, the property on which it is displayed.

Outdoor advertising sign. A permanent sign erected, maintained or used in the outdoor environment for the purpose of the display of commercial or noncommercial messages not appurtenant to the use of, products sold on, or the sale or lease of, the property on which it is displayed.

Parapet. The extension of a building façade above the line of the structural roof.

Pole sign. A sign principally supported by one (1) or more columns, poles or braces placed in or upon the ground. See also “free-standing sign.”

Political sign. A temporary sign intended to advance a political statement, cause or candidate for office. A legally permitted outdoor advertising sign shall not be considered to be a political sign.

Portable sign. Any sign not permanently attached to the ground or to a building or building surface.

Projecting sign. A sign other than a wall sign that is attached to or projects more than eighteen (18) inches from a building face or wall or from a structure whose primary purpose is other than the support of a sign.

Projecting structure. A covered structure of a permanent nature that is constructed of approved building materials and where such structure is an integral part of the main building or is permanently attached to a main building and does not extend over public property. A projecting structure is defined to include marquee and fixed canopy types of structures.

Searchlight. A strong beam of light, including but not limited to laser-type devices, that is typically, but not always, used in advertising a place of business or an event after dark.

Real estate sign. A temporary sign advertising the sale, lease or rental of the property or premise upon which it is located.

Revolving sign. A sign that revolves three hundred sixty (360) degrees about an axis. See also “animated sign, mechanically activated.”

Roof line. The top edge of a peaked roof or, in the case of an extended façade or parapet, the uppermost point of said façade or parapet.

Roof sign. A sign mounted on, and supported by, the main roof portion of a building, or above the uppermost edge of a parapet wall of a building and which is wholly or partially supported by such a building. Signs mounted on mansard facades, pent eaves and architectural projections such as canopies or marquees shall not be considered to be roof signs.

Sign. Any device visible from a public place that displays either commercial or noncommercial messages by means of graphic presentation of alphabetic or pictorial symbols or representation. Noncommercial flags or any flags displayed from flagpoles or staffs will not be considered to be signs.

Sign area. The area of the smallest geometric figure, or the sum of the combination of regular geometric figures, which comprise the sign face. The area of any double-sided or “V” shaped sign shall be the area of the largest single face only. The area of a sphere shall be computed as the area of a circle. The area of all other multiple-sided signs shall be computed as fifty (50) percent of the sum of the area of all faces of the sign.

Sign face. The surface upon, against or through which the sign copy is displayed or illustrated, not including structural supports, architectural features of a building or sign structures, nonstructural or decorative trim, or any areas that are separated from the background surface upon which the sign copy is displayed by a distinct delineation, such as a border.

Sign frame. The outermost border of a sign.

Sign structure. Any structure supporting a sign.

Stake sign. A sign that is not permanently attached to the ground or designed to be permanently attached to the ground.

Subdivision entrance sign. A permanent on-site sign identifying a commercial or residential subdivision, or a multifamily use.

Temporary sign. A sign, of a transitory or temporary nature, intended to display either commercial or noncommercial messages. Portable signs or any sign not permanently embedded in the ground, or not permanently affixed to a building or sign structure that is permanently embedded in the ground, are considered temporary signs.

Under-awning sign. A sign attached to the underside of an awning.

Under canopy sign or under marquee sign. A sign attached to the underside of a canopy or marquee.

V sign. Signs containing two (2) faces of approximately equal size, erected upon common or separate structures, positioned in a “V” shape with an interior angle between faces of not more than ninety (90) degrees with the distance between the sign faces not exceeding five (5) feet at their closest point.

Wall or fascia sign. A sign that is in any manner affixed to or painted on any exterior wall of a building or structure and that projects not more than eighteen (18) inches from the building or structure wall, including signs affixed to or painted on architectural projections from a building provided the copy area of such signs remains on a parallel plane to the face of the building façade or to the face or faces of the architectural projections to which it is affixed or painted on. Neon (or other gaseous) tubing attached directly to a wall surface shall be considered a “wall sign” when forming a border for the subject matter, when directing attention to the subject matter, or when forming letters, logos, symbols or pictorial designs.

Window sign. A sign affixed to or painted on the surface of a window with its message intended to be visible to and readable from the public way or from adjacent property.

(e) *Prohibited signs and activities.* Unless otherwise approved as part of a special event permit, pursuant to the City's Codes and Ordinances, the following devices and locations shall be specifically prohibited:

(1) *Traffic obstructions.* Signs located in such a manner as to obstruct or otherwise interfere with an official traffic sign, signal or device, or obstruct or interfere with a driver's view of approaching, merging or intersecting traffic

(2) *Right-of-way encroachment.* Except as provided for elsewhere in this code, signs encroaching upon or overhanging public right-of-way. No sign shall be attached to any utility pole, light standard, street tree, or any other public facility located within the public right-of-way.

(3) *Signs which blink, flash or are animated.* Signs which blink, flash or are animated by lighting in any fashion that would cause such signs to have the appearance of traffic safety signs and lights, or municipal vehicle warnings from a distance;

(4) *Portable signs.* Portable signs except as allowed for temporary signs.

(5) *Signs attached to mobile structures.* Any sign attached to, or placed on, a vehicle or trailer parked on public or private property, except for signs meeting the following conditions:

- a. The primary purpose of the vehicle or trailer is not the display of the signs;
- b. The signs are magnetic, decals, or painted upon an integral part of the vehicle or equipment as originally designed by the manufacturer, and do not break the silhouette of the vehicle; and
- c. The vehicle or trailer is in operating condition, currently registered and licensed to operate on public streets where applicable, and actively used in the daily function of the business to which such signs relate.

(6) *Vehicles and trailers.* Vehicles and trailers are not to be used primarily as static displays, advertising a product or service, nor utilized as storage, shelter or distribution points for commercial products or services for the general public.

(7) *Special advertisements.* Balloons, streamers, or pinwheels, except those temporarily displayed and permitted as part of a special sale, promotion or community event.

(8) *Signs prohibited by law.* Signs which advertise any activity, service, or product prohibited by the laws or regulations of the United States or the State of Texas or by any ordinance or resolution of the City. This does not prohibit content promoting the legalization of any matter presently prohibited by federal, state or local law.

(9) *Obscene signs.* Signs that contain words, pictures, graphics or statements that are obscene as defined by §43.21 of the Texas Penal Code.

(10) *Signs obstructing doors, windows or fire escapes.* Signs that prevent free ingress to or egress from any door, window or fire escape.

(11) *Outdoor advertising signs.* Except where specifically allowed elsewhere in this Section, outdoor advertising signs, including billboards, are prohibited.

(12) *Miscellaneous signs.* The following signs are prohibited:

- a. Signs on fences, fence posts, railings, gutters, standpipes, fire escapes, courtesy benches or any other device on which to sit, sidewalks, curbs (except house numbers) or any other public facility.
- b. Signs attached to rocks or any natural growth, such as trees, shrubs or other natural foliage.
- c. Signs constructed of nondurable material including, but not limited to, paper, cardboard, or flexible plastic;
- d. A-frame signs.
- e. Garage sale signs on public property;
- f. Inflatable signs.
- g. Off-premise stake signs having commercial messages.
- h. Off-premise real estate signs.
- i. Signs situated within the “clear sight triangle” of two (2) intersecting streets or within the “clear sight triangle” of a driveway or entrance with a public street or highway.
- j. Pole signs, animated signs and neon (or other gaseous) tubing, where located in I Industrial zoning districts.
- k. Signs not specifically included as permissible under this Section.

(f) *Permit procedures, fees and inspections.*

(1) *Permits required.* Unless specifically exempted, a permit must be obtained from the Director of Planning & Development for the erection and maintenance of all signs erected or maintained within the City and its extraterritorial jurisdiction and in accordance with other ordinances of the City. Exemptions from the necessity of securing a permit, however, shall not be construed to relieve the owner of the sign from responsibility for its erection and maintenance in a safe manner and in a manner in accordance with all the other provisions of this Ordinance. A permit shall not be required for the ordinary maintenance and repair of a sign or sign structure for which a permit has previously been issued under this Section. Ordinary maintenance and repair shall not include additions to, alteration of, replacement of or relocation of any sign or sign structure.

(2) *Sign permit application.* Before any permit is granted for the erection of a sign or sign structure requiring such permit, construction documents shall be filed with the Director of Planning & Development showing the dimensions, materials and required details of construction, including loads, stresses, anchorage and any other pertinent data. The permit application shall be accompanied by a written consent of the owner or lessee

of the premise upon which the sign is to be erected and by engineering calculations signed and sealed by a registered design professional where required.

Applications shall provide the following information in order to be considered complete:

- a. The type of sign and cost of sign construction.
 - b. The street address of the property upon which the sign is to be located. In the absence of a street address, a method of location acceptable to the City shall be used.
 - c. Sign details, including a scaled elevation of the size and height of the proposed sign from ground level and adjacent street level.
 - d. The square foot area per sign and the aggregate square foot area if there is more than one (1) sign face.
 - e. The gross floor area of all building(s) on the property.
 - f. The name(s) and address(es) of the owner(s) of the real property upon which the sign is to be located.
 - g. Written consent of the property owner, or his authorized agent, granting permission for the placement and/or maintenance of the sign on the property.
 - h. The name, address and phone number of the sign contractor.
 - i. For free-standing signs, a site plan drawn to scale, showing the proposed location of all primary and accessory free-standing sign(s) on the property. The site plan shall include, at a minimum, a closed boundary survey of the property, gross acreage, the proposed sign location, street right-of-way lines, public and/or private easements, driveway locations and parking spaces.
 - j. For wall signs, two (2) sets of building elevations, mounting details and weight of signs.
 - k. When required by the Building Official, plans for certain signs shall be prepared by a registered professional engineer.
- (3) *Changes to signs.* No sign shall be structurally altered, enlarged or relocated except in conformity to the provisions in this Section, nor until a proper permit, if required, has been secured. The changing or maintenance of movable parts or components of an approved sign that is designed for such changes, or the changing of copy, business names, lettering, sign faces, colors, display and/or graphic matter, or the content of any sign shall not be deemed a structural alteration.
- (4) *Permit fees.* Permit fees to erect, alter, replace or relocate a sign shall be in accordance with the fee schedule adopted by the City. Whenever any work for which a permit is required by this Section has been commenced without first obtaining said permit, a special investigation shall be made to determine compliance with this Section before a permit may be issued for such work. An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee.

(5) *Expiration of permit.* Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within one hundred eighty (180) days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of one hundred eighty (180) days after the time the work is commenced. The Building Official is authorized to grant, in writing one (1) or more extensions of time, for periods not more than one hundred eighty (180) days each. The extension shall be requested in writing and justifiable cause demonstrated.

(6) *Suspension or revocation.* The Director of Planning and Development is authorized to suspend or revoke a permit issued under the provisions of this Section wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this Section.

a. If the Building Official determines, based on inspection or investigation, that there are reasonable grounds for revocation of an approved and issued sign permit, the Director of Planning and Development shall set a hearing and give ten (10) days written notice to the permit holder, the owner of the sign, or the owner of the property on which the sign is located advising of the date, time and place of the hearing to determine whether the sign permit should be revoked. Circumstances that warrant revocation of an approved and issued sign permit shall include but not be limited to the following:

1. A material mistake was made in approving and issuing the sign permit;
2. Approval and issuance of the sign permit was procured on the basis of material misrepresentations or fraud on the part of the applicant, or such permit was issued in violation of any of the provisions of this Section or any other ordinance of the City or the laws of the State of Texas or of the federal government.
3. Construction activities being undertaken on the property subject to the sign permit are not in conformity with the terms of the permit;
4. The sign subject to the permit is in dilapidated or deteriorated condition; or
5. The sign was altered or relocated after the permit was approved in violation of this Section or the terms of the permit.

b. In rendering a decision whether to revoke the sign permit, the Building Official shall determine whether the activity authorized under the original approved application complies with the terms, conditions and requirements of the sign permit and this Section. The Building Official may revoke the permit and require removal or reconstruction of the sign; affirm it; or affirm it with attached conditions that assure that the original terms conditions and requirements of the permit shall be met.

c. A decision to revoke a sign permit shall become final ten (10) days after the date notice of the decision was given, unless appealed within that time period. After the effective date, it shall be unlawful to undertake or perform any activity that was previously authorized by the approved and issued permit without applying for and

obtaining approval of a new permit for the sign. Appeal from the decision to revoke the sign permit shall be to the City Council.

d. Upon final determination by the City revoking the sign permit, it shall be unlawful to undertake or perform any activity that was previously authorized by the approved permit without applying for and obtaining approval of a new permit for the sign. If an application for a new sign permit is not submitted within ten (10) days of the date the decision is final, the sign must be removed at the owner's sole expense.

(7) *Inspections.* Construction or work for which a permit is required shall be subject to inspection by the Director of Planning and Development and such construction or work shall remain accessible and exposed for inspection purposes until approved. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the Director of Planning & Development nor the City shall be liable for expense entailed in the removal or replacement of any material require to allow inspection. Approval as a result of an inspection shall not be construed to authorize a violation of the provisions of this Section or of any other ordinances or regulations of the City. Inspections presuming to give authority to violate or waive the provisions of this Section or any other ordinances of the City shall not be valid.

a. *Footing and foundation inspection.* Footing and foundation inspections shall be made after excavations for footings are complete and any required reinforcing steel is in place. For concrete foundations, any required forms shall be in place prior to inspection.

b. *Other inspections.* In addition to the inspections specified above, the Building Official is authorized to make or require other inspections of any construction work to ascertain compliance with the provisions of this Section, any other ordinances or regulations of the City and other laws that are enforced by the department of building safety.

(8) *Stop work orders.*

a. *Authority.* Whenever the Director of Planning and Development finds any work regulated by this Section being performed in a manner either contrary to the provisions of this Section or is dangerous or unsafe, the Director of Planning and Development is authorized to issue a stop work order.

b. *Issuance.* The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume.

c. *Unlawful continuance.* Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.

(g) *Signs exempt from permit and fee requirements.* The following signs shall be exempt from the permit and fee requirements of this Section. Nothing herein shall be construed to exempt signs enumerated in this subsection from compliance with other applicable requirements of this Section.

(1) *Official notices.* Official notices authorized by a court, public body or public safety official.

(2) *Directional, warning or information signs.* Directional, warning or information sign authorized by federal, state, or municipal governments.

(3) *Memorial plaques, building identification signs and building cornerstones.* Memorial plaques, building identification signs and building cornerstones when cut or carved into a masonry surface or when made of non-combustible material and made an integral part of the building structure.

(4) *Flags.* The flags of a government or noncommercial institution, such as a school, or flags with corporate symbols, such as business logos, each being less than sixty (60) square feet. Flags over sixty (60) square feet shall be classified as a general business sign and shall be subject to all the requirements for such general business sign. Only one (1) of each type of federal, state or local flag shall be permitted per lot or business.

(5) *Religious symbols and seasonal decorations.* Religious symbols and seasonal decorations within the appropriate public holiday season.

(6) *Works of art.* Works of fine art displayed in conjunction with a commercial enterprise where the enterprise does not receive direct commercial gain.

(7) *Street address signs.* Street address signs, and combination nameplate and street address signs, which contain no advertising copy and which do not exceed six (6) square feet in area.

(8) *Non-commercial signs.* A non-commercial sign provided the non-commercial sign complies with all of the following requirements:

- a. The non-commercial sign is not a sign type prohibited by this Section; and
- b. The non-commercial sign is displayed on a “sign type” identified in this Section, and must comply with all identified requirements for that “sign type”; and
- c. For non-commercial signs on residential property, the non-commercial sign shall not exceed thirty-six (36) square feet in area.

(9) *Temporary signs.* The following types of temporary signs:

a. *Real estate signs which meet the following conditions.*

1. Real estate signs on residential property may not exceed six (6) square feet in size and real estate signs on non-residential property may not exceed thirty (30) square feet in size.
2. All real estate signs must be located on the property for sale, lease or rent.

3. Real estate signs shall include only content relevant to the property for sale, lease or rent and shall contain no off-premise advertising matter except for the name, location and contact information for the broker and/or agent.

4. Real estate signs shall be removed within thirty (30) days of the date of the sale, lease or rental of the property.

b. *Political signs.* Political signs in all zoning districts subject to the above requirements for non-commercial signs and subject to the additional requirement that a political sign must be removed within thirty (30) days following the date of the election to which it pertains. Candidates are encouraged not to place political signs too early, and the City does expect signs to be taken down within a reasonable time frame so as not to create a nuisance.

c. *Garage sale signs on private property.* Garage sale signs provided that these are displayed only upon private property with the consent of the property owner and are removed from display not more than twenty-four (24) hours after the date of the sale or event advertised by the sign.

(h) *General provisions.*

(1) *Conformance to codes.* Any sign hereafter erected shall conform to the provisions of this Section and the provisions of all other applicable ordinances of the City, laws of the State of Texas or of the federal government.

(2) *Signs in rights-of-way.* No sign other than an official traffic sign or similar sign shall be erected within any street, or within any public way, unless specifically authorized by other ordinances or regulations of the City or by specific authorization of the Director of Utilities.

(3) *Projections over public ways.* Signs projecting over public walkways shall be permitted only subject to the projection and clearance limits either defined herein or, if not so defined, at a minimum height of eight (8) feet from grade level to the bottom of the sign. Signs, architectural projections or sign structures projecting over vehicular access areas must conform to the minimum height clearance limitations imposed by the City for such structures.

(4) *Traffic visibility.* No sign or sign structure shall be erected at the intersection of any street in such a manner as to obstruct free and clear vision, nor at any location where by its position, shape or color it may interfere with or obstruct the view of or be confused with any authorized traffic sign, signal or device.

(5) *Measurements.*

a. *Computation of frontage.* If a premise contains walls facing more than one (1) property line or encompasses property frontage bounded by more than one (1) street or other property usages, the sign area(s) for each building wall or property frontage will be computed separately for each building wall or property line facing a different frontage. The sign area(s) thus calculated may then be applied to permitted signs placed on each separate wall or property line frontage.

b. *The measurement of sign areas shall be as follows.*

1. For square or rectangular signs the area shall be measured by multiplying the length by the height of the outside edges of the sign frame.
2. For irregular shaped signs the area shall be measured by calculating the area of rectangles, triangles or a combination thereof measured from the outside edges of the sign frame necessary to enclose the sign face.
3. For signs composed of only letters, words or symbols the area shall be measured or determined by the area included within imaginary straight lines drawn around the entire copy or grouping of such letters, words, or symbols.
4. For signs with two (2) or more faces, the area of a double-faced sign is calculated using the area of one (1) side only. The area of all other multiple-sided signs shall be computed as fifty (50) percent of the sum of the area of all faces of the sign.

c. *Distance between signs.* A minimum distance of three hundred (300) feet shall be required between free-standing signs on the same premise.

Exception. When a premise located in a commercial zoning district has frontage on more than one (1) street or highway and there is no residentially zoned property within one thousand (1,000) feet of the proposed locations of the signs, the required distance between signs may be reduced to a distance equal to one-half the combined street frontage of the two (2) streets where the signs are proposed to be located provided that all of the following conditions are met:

1. The combined square footage of the two (2) proposed signs shall not exceed the total square footage permitted by this Section for one (1) such sign;
2. The combined street frontage of the two (2) streets where the signs are proposed to be located is less than three hundred (300) lineal feet; and
3. Vehicular access, conforming to the technical specifications of the City, is provided on both of the streets where the signs are proposed to be located.

d. *Measurement of distance.* Whenever a minimum distance between signs is required, the distance is measured from the closest points at which the signs touch the ground and, for signs that do not touch the ground, the horizontal distance shall be measured from the closest points as if each sign touched the ground.

(6) *Maintenance.* Every sign permitted by this Ordinance shall be kept in good condition and repair. When any sign becomes insecure, in danger of falling or is otherwise deemed unsafe by the Director of Planning and Development, or if any sign shall be unlawfully installed, erected or maintained in violation of any of the provisions of this Ordinance, the owner thereof or the person or firm using same shall, upon written notice by the Director of Planning and Development forthwith in the case of immediate danger, and in any case within not more than ten (10) days, make such sign conform to the provisions of this Ordinance, or shall remove it. If within ten (10) days the order is not complied with, the Director of Planning and Development shall be permitted to remove or cause such sign to be removed at the expense of the owner and/or the user of the sign.

(7) *Obsolete sign copy.* Any sign copy that no longer advertises or identifies a use conducted on the property on which said sign is erected must have the sign copy covered or removed within thirty (30) days after written notification from the Director of Planning and Development; and upon failure to comply with such note, the Director of Planning and Development is hereby authorized to cause removal of such sign copy, and any expense incident thereto shall be paid by the owner of the building, structure or ground on which the sign is located.

(8) *Nonconforming signs.*

It is the intent of this subsection to recognize that the eventual elimination, as expeditiously as reasonable, of nonconforming signs, is as much a legitimate concern to the health, safety and welfare of the public as is the prohibition of new signs which would violate the provisions of this Section. It is further the intent of this subsection to acknowledge the interests of the owner and requirements of applicable state law to the issue of nonconforming signs.

A nonconforming sign, in existence and lawful as of the effective date of this Section, shall be permitted to remain in its same location subject to the conditions herein. The standards applicable to the sign shall be those in effect at the time the sign was lawfully erected, except as provided herein, and each nonconforming sign must be maintained in accordance with such standards.

a. Enlargement or expansion of nonconforming signs is prohibited. Structural alterations are permitted only to make the nonconforming sign comply with all requirements of this Section, or to render the nonconforming sign structurally sound, in which event the structural alteration shall not increase the outside dimensions or the degree of nonconformity of the nonconforming sign.

b. Routine maintenance and changing of copy is permitted as long as such maintenance or changing of copy does not result in or change the shape, size or design of the sign. A change in the message on the sign shall not constitute an alteration or modification of the sign.

c. Any nonconforming sign designated by official action of the City as having special historic or architectural significance shall be exempt from the requirements of this subsection regarding nonconforming signs.

d. A nonconforming sign, as defined herein, shall be deemed to have lost its nonconforming status under the following circumstances and shall be subject to abatement and removal as provided herein upon the occurrence of the following circumstances:

1. The sign is removed, relocated or replaced;
2. The structure or size of the sign is altered in any way except toward compliance with this Section. Alteration such as to cause a loss of nonconforming status shall not include change of copy, change of graphics or routine maintenance or repair; or

3. The sign, through natural or other causes or due to deterioration or dilapidation, is damaged to the extent that the cost of replacement or repair of the sign exceeds sixty (60) percent of the cost of erecting a new sign of the same type at the same location.

(9) *Design and construction.* All signs and structures shall be designed and constructed to withstand all structural design loads as required by the adopted Building Code of the City. Designs shall be required to bear the seal of a registered professional engineer. Transformers, wires and similar items shall be concealed. All wiring to signs shall be underground.

(10) *Sign height, area and setback.* Signs shall be a maximum of twenty (20) feet in height, shall be a maximum of one hundred (100) square feet in area (as calculated herein), and no sign shall intrude into any public right of way and all structures, supports and sign faces shall be setback from all property lines a minimum distance of fifteen (15) feet unless one (1) or more of the following applies:

- a. Requirements are otherwise stipulated within this Section for the specific sign type or in the ordinance establishing a Planned Development (PD) zoning district.
- b. Signs are located in one of the sign overlay zones identified in this Ordinance.

(11) *Construction signs.*

- a. Such signs on a single residential lot shall be limited to one (1) sign, not greater than three (3) feet in height, and six (6) square feet in area.
- b. Such signs for a residential subdivision or multiple residential lots shall be limited to one (1) sign at each entrance to the subdivision or on one (1) of the lots to be built upon, and shall be no greater than eight (8) feet in height, and twelve (12) square feet in area.
- c. Such signs for nonresidential projects shall be limited to one (1) sign per street front, not to exceed twelve (12) feet in height and thirty (30) square feet in area.
- d. Development and construction signs may not be displayed until after the issuance of construction permits by the Director of Planning and Development, and must be removed not later than twenty-four (24) hours following issuance of an occupancy permit for any of all portions or the project.

(12) *Special promotion, event and grand opening signs.* Signs temporarily displayed to advertise special promotions, events and grand openings shall be permitted for nonresidential uses in a residential district, and for all commercial and industrial districts subject to the following limitations:

- a. Such signs shall be limited to one (1) sign per street front.
- b. Such signs may be displayed for not more than thirty (30) consecutive days in any three (3) month period, and not more than sixty (60) days in any calendar year. The signs shall be erected no more than five (5) days prior to the event of grand opening, and shall be removed not more than one (1) day after the event or grand opening.

c. The total area of all such signs shall not exceed six (6) square feet in any single family residential district, twelve (12) square feet in any multifamily residential district and thirty (30) square feet in any nonresidential district.

(i) *Requirements for signs in specified districts or zones.*

(1) *Signs in residentially zoned districts.*

a. The provisions of this subsection shall control in the following Zoning Districts: AG – Agricultural, RE – Residential Estate, RL – Residential Lake Lots, R1 – One-Family Residential, R2 – Two-Family Residential and R3 – Multifamily Residential.

b. All signs authorized in residentially zoned districts shall conform to the applicable general requirements of this Section.

c. One (1) sign not exceeding two (2) square feet in area shall be permitted per dwelling unit. Such sign may include the name(s) of the occupant(s), the address and any religious or ideological message otherwise permitted by this Section.

d. For multifamily dwelling units, a total of two (2) wall signs shall be permitted per building. Each such sign may total no more than six (6) square feet in area and may include the name, address or identification of the building.

e. Real estate, political and garage sale signs shall be permitted in residentially zoned districts provided the real estate, political and garage sale signs are in compliance with other applicable provisions of this Section.

f. One (1) sign not exceeding four (4) square feet in area shall be permitted to identify a home occupation, as defined in and meeting the requirements of this Ordinance, on the premise. The home occupation sign shall be required to be mounted flat against the building and may include only the name of the occupant, the name of the home occupation, the address and telephone contact information for the home occupation, and the website identification for the home occupation. Home occupation signs must be stationary in all aspects and shall not be illuminated.

g. Two (2) subdivision entrance signs, each not exceeding sixty (60) square feet in area, shall be permitted for each platted subdivision within the City. No commercial message may be included on subdivision entrance signs and copy on such signs shall not exceed fifty (50) percent of the total sign area of each sign.

h. Churches located in residentially zoned districts shall be allowed the following signage:

1. *Free-standing signs.* One (1) free-standing sign, not to exceed sixty (60) total square feet in area, shall be permitted.

2. *Wall signs.* The total sign area permitted for all wall signs on a wall fronting a street or a wall housing the primary entrance to the business, shall not exceed ten (10) percent of the wall face. Window signs shall be considered as part of the total wall signage permitted and shall not exceed twenty-five (25) percent of the window area.

(2) *Signs in nonresidential zoning districts.*

- a. Subject to the applicable provisions for sign overlay zones set forth herein, the provisions of this subsection shall control in the following zoning districts: CBD – Central Business District, C1 – Commercial, C2 – Commercial/Interstate and I – Industrial. Properties located within a sign overlay district must comply with the regulations in this subsection to the extent not covered by the overlay district regulations.
- b. Within nonresidential zoning districts, total signage allowed shall not exceed ten (10) square feet per lineal foot of building frontage. Accessory structures not housing primary business activity shall not be included in the calculation of maximum allowable signage.
- c. *Free-standing signs.* One (1) free-standing sign, not to exceed one hundred fifty (150) total square feet in area, shall be permitted. In those circumstances where another business with gross floor area of two thousand (2,000) square feet or more is situated on the same premise as the main business, one (1) additional free-standing sign, not to exceed one hundred fifty (150) total square feet in area, shall be permitted for each additional business provided that the minimum distance between signs required by this Section is met. In those circumstances where there exists on the same premise as the main business, two (2) or more other businesses, each individually having less than two thousand (2,000) square feet in gross floor area, but having a combined gross floor area of two thousand (2,000) square feet or more, one (1) additional free-standing sign, not to exceed one hundred fifty (150) total square feet in area, shall be permitted. In this circumstance, the “combined businesses” shall share the additional free-standing sign as determined among the combined businesses. Where applicable, multiple-occupancy or multi-tenant development signs are encouraged. For multiple-occupancy or multi-tenant development signs, an increase of twenty (20) percent in the allowable sign area is permissible.

Free-standing signs shall comply with each of the following requirements:

1. *Height.* Free-standing signs shall not exceed twenty-five (25) feet in height above existing finish grade level.
 2. *Location.* No free-standing sign shall intrude into any public right of way and all structures, supports and sign faces shall be a minimum of five (5) feet from any property line.
 3. *Off-premise messages.* A maximum of ten (10) percent of the sign face area, or ten (10) percent of the usage of an electronic computerized message board, of any on-premise free-standing sign may contain one (1) advertisement for one (1) business operation not located on said premise.
- d. *Projecting signs and awning signs.* In addition to other signs allowed under this subsection, a business situated in a nonresidential zoning district may have either one (1) projecting sign or one (1) awning sign. Projecting signs and awning signs shall not exceed twelve (12) square feet in sign area.
- e. *Canopy and marquee signs.* In addition to other signs allowed under this subsection, a business situated in a nonresidential zoning district may have one (1)

canopy or marquee sign. A canopy or marquee sign shall not exceed twelve (12) square feet in sign area.

f. *Roof signs.* A business situated in a nonresidential zoning district may have one (1) roof sign, not to exceed thirty (30) square feet in sign area, in lieu of an otherwise permitted free-standing sign.

g. *Wall signs.* A business situated in a nonresidential zoning district shall be allowed wall signage for each side of its building. Wall signs shall not project more than eighteen (18) inches from the building wall. The total sign area permitted for all wall signs on a wall fronting a street or a wall housing the primary entrance to the business, shall not exceed twenty (20) percent of the wall face. The total sign area of all other walls shall not exceed ten (10) percent of the wall face. Window signs shall be considered as part of the total wall sign area permitted and shall not exceed twenty-five (25) percent of the window area.

h. *Development complex signs.* In addition to the free-standing business identification signs otherwise allowed by this Ordinance, every multiple-occupancy development complex on parcels exceeding eight (8) acres in size shall be entitled to one (1) development complex sign, per entrance. Such sign shall not exceed the total square feet allowed for free-standing signs in the district or overlay zone for which the parcel is located.

i. *Light pole banners.* A maximum of two (2) light pole banners, each not to exceed twelve (12) square feet in size, shall be permitted on each operational light located on a parking area of a business within a nonresidential zoning district. The banners shall extend no more than two (2) feet from the light pole, shall contain only the name and/or logo of the main business located on the property or be decorative in nature.

j. *Directional signs.* No more than two (2) directional signs shall be permitted per street entrance to any lot. The maximum area for directional signs shall be six (6) square feet. Not more than twenty-five (25) percent of the area of any directional sign shall be permitted to be devoted to business identification or logo, which are shall not be assessed as identification sign area. Directional signs shall not exceed three (3) feet in height and shall not exceed three (3) feet in width.

(3) *Establishment of sign overlay zones.*

a. The following sign overlay zones are hereby established for the City of Weatherford:

1. *Sign Overlay Zone 1.* To encompass and include all commercially zoned property with frontage directly abutting Farm to Market Road 51 from its intersection with U.S. Highway 180 and continuing in a northerly direction to the north city limits of the City, and to encompass and include all commercially zoned property with frontage directly abutting U.S. Highway 180 (Fort Worth Highway) from its intersection with State Highway 171/Farm to Market Road 51 and continuing in an easterly direction to the east city limits of the City, and to encompass and include all commercially zoned property with frontage directly abutting State Highway 171/Farm to Market Road 51 from its intersection with

U.S. Highway 180 and continuing in a southerly direction to the south city limits of the City, and to encompass and include all commercially zoned property with frontage directly abutting U.S. Highway 180 (Palo Pinto Street) from its intersection with State Highway 171/Farm to Market Road 51 and continuing in a westerly direction to the west city limits of the City; excluding properties zoned Central Business District (CBD).

2. *Sign Overlay Zone 2.* To encompass and include all commercially zoned property with frontage directly abutting I-20 from the western city limits of the City, to the eastern city limits of the City.

3. *Sign Overlay Zone 3.* To encompass and include all property located within the Central Business District (CBD) of the City.

4. *Sign Overlay Zone 4.* Reserved.

5. *Sign Overlay Zone 5.* Reserved.

b. When a commercially zoned lot abuts or touches more than one of the above designated sign overlay zones, the sign regulations for that lot shall be those for the sign overlay zone toward which the sign faces.

(4) *Specific regulations for sign overlay zones.*

a. *Sign overlay zone 1.*

1. *Sign height.* Free-standing signs shall not exceed thirty-five (35) feet in height above existing finish grade level.

2. *Sign area.* Free-standing signs shall be allowed a maximum of two hundred (200) square feet in sign area. Roof signs shall be allowed a maximum of sixty (60) square feet in sign area.

3. *Total sign area.* Any business shall be allowed to calculate the total sign area allowed per premises at the rate of twelve and one-half (12.5) square feet per lineal foot of building frontage.

4. *Copy extensions.* Any business shall be allowed to enhance signs through the use of copy extensions, cut-outs, or drop-outs. Such enhancements shall be limited to a total of twenty (20) percent of the allowed sign area for the sign on which it is installed, and must be included in engineering calculations.

b. *Sign overlay zone 2.*

1. *Sign height.* Free-standing signs shall not exceed sixty (60) feet in height above existing finish grade level.

2. *Sign area.* Free-standing signs shall be allowed a maximum of four hundred fifty (450) square feet in sign area. Roof signs shall be allowed a maximum of ninety (90) square feet in sign area.

3. *Total sign area.* Any business shall be allowed to calculate the total sign area allowed per premises at the rate of fifteen (15) square feet per lineal foot of building frontage.

4. *Copy extensions.* Any business shall be allowed to enhance signs through the use of copy extensions, cut-outs, or drop-outs. Such enhancements shall be limited to a total of twenty (20) percent of the allowed sign area for the sign on which it is installed, and must be included in engineering calculations.

c. *Sign overlay zone 3.*

1. *Sign height.* Free-standing signs shall not exceed twenty (20) feet in height above existing finish grade level.

2. *Sign area.* Free-standing signs shall be allowed a maximum of one hundred (100) square feet in sign area. Roof signs shall be allowed a maximum of thirty (30) square feet in sign area.

3. *Total sign area.* Any business shall be allowed to calculate the total sign area allowed per premises at the rate of ten (10) square feet per lineal foot of building frontage.

4. *Copy extensions.* Any business shall be allowed to enhance signs through the use of copy extensions, cut-outs, or drop-outs. Such enhancements shall be limited to a total of twenty (20) percent of the allowed sign area for the sign on which it is installed, and must be included in engineering calculations.

5. *Other downtown signage regulations.* Signs in the CBD shall be subject to the following regulations:

a. *Window signs.* Window signs shall be limited to forty (40) percent of the area of the window and shall be small enough to not interfere with the display area.

b. *Awning signs.* Awning signs shall consist of letters of a maximum height of eight (8) inches and shall be an integral part of the awning pattern and style.

c. *Lighting.* Lighting, if used, shall be limited to internally lit indirect lighting or white direct lighting fixed on the advertising matter.

d. *Sign overlay zone 4.* Reserved.

e. *Sign overlay zone 5.* Reserved.

(j) *Sign plan for planned development districts.*

(1) Planned Development districts may submit a sign plan to the Planning and Zoning Board for review and recommendation to alter the sign regulations which would otherwise be applicable to the planned development district. The Planning and Zoning Board shall review the sign plan and make a recommendation to the City Council for approval, denial or approval with conditions. The City Council shall review the sign plan and shall approve, deny or approve with conditions. All sign plans shall be submitted to the offices of Planning and Development and shall include, at a minimum, the following:

a. A drawing of all proposed signs, drawn to scale, with dimensions and sizes of structural supports, and engineering specifications as required.

- b. A site plan of the planned development district, drawn to scale, including locations of all signs already present in the planned development district, and properties immediately adjacent. This shall include correct measurements to property lines, and to adjacent signs.
 - c. A written explanation of the reasons for the request.
 - d. Detailed information on each sign proposed, including dimensions, height, type, and other necessary information related to conformance to existing sign regulations.
 - e. An analysis showing evidence of no net increase in total signage area.
 - f. Other information, as requested, necessary to provide a complete and thorough report.
- (2) The Director of Planning and Development (or his/her designee) shall then present the request to the Planning and Zoning Board at its next regular meeting, and shall notify the public and adjacent neighbors of the request in accordance with the provisions of this Ordinance.
- (k) *Summary; enforcement proceedings.*
- (1) *Removal or securing of sign.* The Director of Planning and Development or other authorized representative of the City may immediately remove or secure a sign without notice in the following circumstances constituting a violation of this Section:
- a. The sign is prohibited under this Section and constitutes an immediate threat to persons or property.
 - b. The sign is prohibited under this Section and is classified as a temporary sign.
 - c. The sign is nonconforming or otherwise authorized under this Section, but in its present condition constitutes an immediate threat to persons or property.
 - d. The sign is a political sign and is not removed within thirty (30) days following the election to which it pertains.
 - e. The sign is a garage sale sign and is not removed within twenty-four (24) hours after the date of the sale.

The City is not required to store these signs which may be immediately destroyed.

(2) *Notice and hearing following removal or securing of sign.* With the exception of the summary removal of political signs and garage sale signs as provided herein, following summary removal of a sign pursuant to this subsection, the Director of Planning and Development shall give written notice to the owner of the sign or the owner of the property on which the sign was placed of such person's right to appeal the decision of the City regarding removal or securing of the sign. The person(s) so notified shall provide the City written notice of appeal of the Director of Planning and Development's determination within ten (10) days of receipt of notice, setting forth the reasons in detail why the Director of Planning and Development's determination was in error. Failure to provide written notice of appeal within the ten (10) day period provided herein shall constitute a waiver of the right to appeal the removal or other action.

For purposes of this subsection, the Director of Planning and Development shall be deemed to have given written notice by either personal delivery of or the mailing of said notice, by United States Postal Service certified mail, to the entity or person identified on the sign made the subject of the notice; or to the person or entity identified on the sign for purposes of notice; or to the owner of the property on which the sign was placed or displayed.

(3) *Removal of sign following notice.*

a. A sign may be removed by the City following fifteen (15) days written notice from the Director of Planning and Development, or other official authorized herein, to the owner of the sign or the owner of the property on which the sign is located, upon determination of one of the following:

1. The sign is prohibited under this Section, but is not subject to summary removal under this Section, and the sign is not a nonconforming sign;
2. There is no sign permit as required under this Section authorizing the sign;
3. The sign did not comply with the sign regulations in effect on the date it was erected, or was otherwise unlawful on such date;
4. The sign has been destroyed; for purposes of this provision, a sign is considered destroyed whenever the cost to repair it exceeds sixty (60) percent of the cost of erecting a new sign of the same type at the same location on the date of the damage.
5. Any condition occurs which would have been cause for removal of the sign under the sign regulations in effect when the sign was erected.

b. If the sign owner does not remove the sign or give written notice of his/her intent to obtain a permit authorizing the sign, or repair or reconstruct the sign in accordance with the terms in the notice within such fifteen (15) day period, the Director of Planning and Development may enter the property upon which such sign is located, and cause the removal of the sign. The Director of Planning and Development may specify a reasonable amount of time for the sign owner to obtain a sign permit, or repair or reconstruct the sign to meet the requirements of this Section.

c. The sign owner or the owner of the property on which the sign is erected may appeal the determination of the Director of Planning and Development or other authorized person under this subsection to the City Council within ten (10) days following receipt of the notice of the violation.

(10) *Responsibility for costs of removal.* Whenever the City lawfully removes or causes a sign to be removed under this Section, the sign permit holder, if any, the owner of the sign and the owner of the property on which the sign is erected shall be jointly and severally liable to the City for any expenses incurred in removal of the sign.

(11) *Appeals.* The sign permit holder, if any, the owner of the sign and the owner of the property on which the sign is erected, who is adversely affected by a decision of the Director of Planning and Development, or other person authorized herein to enforce the provisions of this Section, may appeal such decision in writing to the City Council within

ten (10) days of the date the decision is rendered. The appeal shall set forth the grounds for the appeal with particularity. The City Council shall decide the appeal applying the standards in this Section.

Sec. 12-5-8. Supplemental regulations.

(a) *Communication antennas, support structures and towers.*

(1) *Applicability.*

- a. These regulations apply to all commercial and amateur communication antennae, support structures and towers unless exempted below.
- b. Direct broadcast satellite (DBS) reception devices, broadband radio service provider (formerly multi-channel multi-point distribution service (MMDS)) reception devices and television broadcast station (TVBS) reception devices as defined by the Federal Communications Commission (FCC) meeting the following requirements do not require a conditional use approval unless mounted on a pole or mast higher than 12 feet above the roofline:
 1. A “dish” antenna that is one (1) meter (i.e., 39.37 inches) or less in diameter and is designed to receive direct broadcast satellite service, including direct-to-home satellite service, or to receive or transmit fixed wireless signals via satellite;
 2. An antenna that is one (1) meter or less in diameter or diagonal measurement and is designed to receive video programming services via broadband radio service (wireless cable) or to receive or transmit fixed wireless signals other than via satellite;
 3. In a non-residential zoning district, an antenna that is two (2) meters or less in diameter;
 4. An antenna that is designed to receive local television broadcast signals.
 5. Antennas used for AM/FM radio, amateur (“ham”) radio, Citizen's Band (“CB”) radio or Digital Audio Radio Services (“DARS”) concealed behind or located within attics, eaves, gutters or roofing components of the building, and do not exceed a height twelve (12) feet above the roofline.
- c. Communication antennas, support structures and towers legally installed before adoption of these regulations which could not be built under the terms of this Section by reason of restrictions on area, lot coverage, height, yard, site location on the lot, or other requirements concerning the structure, may be continued so long as they remain otherwise lawful, subject to the provisions of this Ordinance regarding nonconforming structures.
- d. Antennae and support structures may be considered either principal or accessory uses.
- e. Antenna installations shall comply with all other requirements of this Ordinance and the Code of Ordinances of the City with the exception of those specifically cited within this subsection.

(2) *Definitions.* For the purposes of this subsection, the following special definitions shall apply:

Antenna, microwave reflector and antenna support structure. An antenna is the arrangement of wires or metal rods used in transmission, retransmission and/or reception of radio, television, electromagnetic or microwave signals (includes microwave reflectors/antennae). A microwave reflector is an apparatus constructed of solid, open mesh, bar-configured, or perforated materials of any shape/configuration that is used to receive and/or transmit microwave signals from a terrestrial or orbitally located transmitter or transmitter relay. Microwave reflectors are also commonly referred to as satellite receive only earth stations (T.V.R.O.S.), or satellite dishes. An antenna support structure is any tower, mast, pole, tripod, box frame, or other structure utilized for the purpose of supporting one or more antennae or microwave reflectors.

Antenna (non-commercial/amateur). An antenna or antenna support structure used for the purpose of transmission, retransmission, and/or reception of radio, television, electromagnetic, or microwave signals for private or personal use and not for the purpose of operating a business and/or for financial gain. A satellite dish antenna not exceeding six (6) feet in diameter shall also be considered as a non-commercial antenna.

Antenna (commercial). An antenna or antenna support structure used for the purpose of transmission, retransmission, and/or reception of radio, television, electromagnetic, or microwave signals primarily for the purpose of operating a business and/or for financial gain (e.g., commercial broadcasting, cellular/wireless telecommunications, etc.). A satellite dish antenna that exceeds six (6) feet in diameter shall also be considered as a commercial antenna.

Colocation. The use of a single support structure and/or site by more than one (1) communications provider.

Communications operations (non-commercial/amateur). The transmission, retransmission and/or reception of radio, television, electromagnetic, or microwave signals for private or personal use, and not for the purpose of operating a business and/or for financial gain.

Communications operations (commercial). The transmission, retransmission, and/or reception of radio, television, electromagnetic, or microwave signals primarily for the purpose of operating a business and/or for financial gain.

Height. The distance measured from the finished grade of the lot/parcel to the highest point on the support structure or other structure, including the base pad and any antennae.

Radio, television or microwave tower. See “antenna, microwave reflector and antenna support structure”.

Telecommunications tower or structure. See “antenna, microwave reflector and antenna support structure”.

Temporary/mobile antenna. An antenna and any associated support structure/equipment (including, but not limited to, a support pole, a vehicle, etc.) that is placed and/or used on

a temporary basis only (i.e., not intended to be permanent), usually in conjunction with a special event, news coverage or emergency situation, or in case of equipment failure or temporary augmentation of permanent communications equipment.

Wireless communication tower or structure. See “antenna, microwave reflector and antenna support structure”.

(3) *Permit Requirements.*

- a. A building permit is required to erect or install an antenna, antenna support structure and related structures/equipment. All installations shall comply with applicable federal, state and local building codes and the standards published by the Electronic Industries Association (EIA).
- b. A site plan, shown at a scale of one (1) inch equals forty (40) feet, shall be submitted along with the building permit application. The site plan shall illustrate:
 1. Property lines and physical dimensions of the property.
 2. Location, heights, dimensions, setbacks, trees (exceeding six (6) inches in diameter, at a point four and one half (4 ½) feet above the ground) on the lot, and types of existing structures on the property.
 3. Location and size of adjacent buildings and easements, within the required fall zone.
 4. Location of the proposed wind system and any accessories.
- c. Rights of way of any adjacent public road.
- d. Foundation drawings and details with a registered Texas Engineer stamp.
- e. Tower drawings and details with a registered Texas Engineer stamp.
- f. Decommission Plan.

(4) *Height Requirements.* Nothing in this Section shall be construed to limit the height of communication antennas, support structures or towers beyond what is sufficient to accommodate amateur service communications. Owners of certain antenna structures more than sixty and ninety-six one-hundredths (60.96) meters (two hundred (200) feet) above ground level at the site or located near or at a public use airport must notify the Federal Aviation Administration and register with the FCC as required by federal law.

(5) *Area, Yard, and Lot Requirements.*

- a. No commercial antenna support structure shall be closer to any residential district boundary line or residential dwelling than a distance equal to the height of the support structure. Such setback/distance shall be measured as the shortest possible distance in a straight line from the structure to the closest point of a residential district boundary line or residential dwelling. Setbacks from residentially zoned property do not apply to antennae attached to public utility structures that exceed fifty (50) feet in height, or to antennae placed wholly within or mounted upon a building.

- b. No amateur or commercial antenna, antenna support structure, microwave reflector/antenna, or associated foundations or support wires or appurtenances shall be located within any required setback area for the front, side or rear yards.
- c. Only one (1) amateur antenna/support structure shall be permitted per residential lot, except that a maximum of two (2) satellite dishes may be allowed if both units are no larger than one (1) meter (39 inches) in diameter (only one (1) allowed if over one (1) meter in diameter). Satellite dishes in any residential district shall not exceed twelve (12) feet in diameter, and must be permitted by the City Manager (or his/her designee).

(6) *Additional regulations.*

- a. All antennae and support structures must meet or exceed the current standards and regulations of the Federal Communications Commission (FCC), the Federal Aviation Administration (FAA), and/or all other applicable federal, state and local authorities. If those standards change, then the owner/user of an antenna or support structure must bring the antenna/structure into compliance within six (6) months or as may otherwise be required by the applicable regulating authority.
- b. Antennae (amateur or commercial) shall not create electromagnetic or other interference with the City's and the County's radio frequencies and public safety operations, as required by the FCC. Antennae also shall not interfere with radio or television reception of nearby property owners. In no manner shall the use of such equipment infringe upon adjoining property owners.
- c. No antenna or support structure shall be located so as to create a visual obstruction within critical visibility areas (such as at street intersections or where a private driveway enters a roadway) or a traffic safety problem.
- d. Safeguards shall be utilized to prevent unauthorized access to an antenna installation. Safeguards include certain devices identified/recommended by the manufacturer of the antenna or support structure, a fence, a climbing guard, or other commercially available safety devices. Climbing spikes or other similar climbing device, if utilized, shall be removed immediately following use.
- e. Temporary antennae shall only be allowed in the following instances:
 - 1. In conjunction with a festival, carnival, rodeo or other special event/activity;
 - 2. In case of an emergency (e.g., severe weather, etc.) or a news coverage event;
 - 3. When needed to restore service on a temporary basis after failure of an antenna installation. The City must be notified within seventy-two (72) hours of the placement of a temporary antenna. If the temporary antenna is to be needed for more than seven (7) days, then the owner/user must apply for and acquire a permit for the temporary installation on or before the eighth day following initial placement of the antenna.
- f. Colocation is greatly encouraged by the City.

1. All new support structures over fifty (50) feet in height shall be constructed to support antennae for at least two (2) carriers, unless the structure is an alternative or stealth design, or the support structure is replacing an existing utility structure or light standard. Sufficient area for associated structures and equipment shall also be provided.

2. A support structure which is modified or reconstructed in order to accommodate colocation shall be of the same type, design and height as the existing structure, and it may be moved on the same property within fifty (50) feet of its original location provided that it is not moved any closer to residentially zoned property (if the structure was allowed by CUP, then its new location shall be within the physical/land boundaries of the CUP). The original (i.e., former) support structure shall be removed from the property within ninety (90) days following completion of the new structure.

3. Where an additional antenna is to be attached to an existing support structure that already has an antenna mounted upon it, the new antenna shall comply with and be compatible with the design of the existing antenna on the colocated structure.

g. Support buildings and equipment storage areas/buildings shall be screened from public view if mounted on a rooftop. When ground mounted, they shall meet all applicable front, side and rear yard setback requirements, and shall be screened from public view by a dense, opaque evergreen landscaped screen with an initial planting height of three (3) feet, and which will attain an ultimate height of six (6) feet at maturity. A six (6) foot solid masonry wall may be used in lieu of the landscaped screen provided exterior finish materials are compatible with nearby structures. The use of a wood fence for screening is prohibited, and wrought iron or chain link may only be used in conjunction with a landscaped screen as specified above.

h. Satellite dishes and other similar antennae shall be permitted on the roof of a building, as long as a letter certifying the roof's/building's structural stability, written and sealed by a registered architect or engineer, is submitted to the City Manager prior to any approval of a roof-mounted antenna.

i. All commercial signs, flags, lights and attachments other than those required for emergency identification, communications operations, structural stability, or as required for flight visibility by the FAA and/or FCC shall be prohibited on any antenna or antenna support structure. However, lights may remain or be placed upon light standards that are altered or replaced in order for them to serve as antenna support structures provided that said lights are not commercial (i.e., for-profit) in nature, and provided that said lights are placed/replaced as the same size, configuration, number of bulbs, degree of luminance, etc. as they previously existed prior to support structure modification/replacement.

j. Any publicly owned antennae or antenna support structures (e.g., public safety communications, etc.) shall be permitted in any zoning district.

(7) *Abandonment.*

a. A communication antenna, support structure or tower that is out of service for a continuous twelve (12) month period will be deemed to have been abandoned. The City may issue a Notice of Abandonment to the owner of a communication antenna, support structure or tower that is deemed to have been abandoned. The owner shall have the right to respond to the Notice of Abandonment within thirty (30) days from postmark date. The City shall withdraw the Notice of Abandonment, and shall notify the owner that the Notice has been withdrawn, if the owner provides information that demonstrates the communication antenna, support structure or tower has not been abandoned.

b. If a communication antenna, support structure or tower is determined to be abandoned, the owner shall remove the communication antenna, support structure or tower, at the owner's sole expense, within sixty (60) days of postmark date of the Notice of Abandonment. If the owner fails to remove the communication antenna, support structure or tower, the City may pursue a legal action to have the communication antenna, support structure or tower removed at the owner's expense.

(8) *Decommissioning Plan.*

The permit application must contain a decommissioning plan to ensure the project is properly decommissioned upon abandonment. At a minimum, the decommissioning plan shall include:

a. Provisions for the removal of all structures, and accessories, within one hundred eighty (180) days after facility abandonment.

b. Provisions for the restoration of the soil and vegetation within two hundred seventy (270) days after abandonment.

(9) *Enforcement.*

a. The ordinance shall be administered by the Director of Planning and Development (or his/her designee).

b. The Director of Planning and Development (or his/her designee) may enter any property, for which a building permit has been issued under this Ordinance, to conduct an inspection to determine whether the conditions stated in the permit have been met.

c. The Director of Planning and Development (or his/her designee) may issue orders to abate any violation of this Ordinance.

(10) *Penalties.*

a. Any person who fails to comply with any provision of this Ordinance, or any building permit issued pursuant to this Ordinance, shall be subject to enforcement and penalties as stipulated in the Weatherford City Code.

b. Nothing in this Section shall be construed to prevent the City of Weatherford from using any other lawful means to enforce this Ordinance.

(b) *Wind energy systems.*

(1) *Description.*

This subsection is to promote the safe, effective and efficient use of Wind Energy Systems (WES) and to promote the supply of wind energy sources, by establishing standards and procedures, by which the installation and operation of Wind Energy Systems shall be governed within the City of Weatherford.

(2) *Definitions.* For the purposes of this subsection, the following special definitions shall apply:

Fall zone. An area surrounding the proposed WES tower, circular in shape, with a radius equal to the height of the tower. The entire fall zone must be located on the same lot as the tower, and shall be clear of any habitable residential structures and/or occupiable commercial structures.

Grid-interconnected system. A WES system producing power for use on a utility company grid system. Such system may or may not be capable of sending power back into the utility grid.

Off-grid system. A stand-alone generating system not connected to or in any way dependent on the utility grid.

Over speed controls. Mechanisms to limit the speed of the blade rotation.

Small wind energy system. A wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than one hundred (100) kilowatts (kW) and which is intended to primarily reduce the on-site consumption of utility power.

Total height. The vertical distance from ground level to the tip of a wind generator blade, when the blade is at its highest point.

Tower, guyed. Structure of tubular or open steel lattice construction anchored by steel ropes (guys), with suitable foundation, with an anchor radius of approximately two-thirds (2/3) the tower height.

Tower, monopole. Self-supporting structure of tubular or open steel lattice construction which is anchored in the ground with suitable foundation.

Wind energy system. Equipment that converts and then stores or transfers energy from the wind into useable forms of energy. This equipment includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other component used in the system.

Wind generator. Blades and associated mechanical and electrical conversion components mounted on top of the tower.

(3) *Permit Requirements.*

- a. A building permit shall be required for the installation of any small wind energy system. For wind energy systems which have a rated capacity greater than one hundred (100) kilowatts (kW), conditional use approval in accordance with this Ordinance shall be required.

- b. A site plan, showing a scale of one (1) inch equals forty (40) feet, shall be submitted with the building permit application. The site plan shall include:
 - 1. Property lines and physical dimensions of the property.
 - 2. Location, heights, dimensions, setbacks, trees (exceeding six (6) inches in diameter, at a point four and one half (4.5) feet above the ground) on the lot, and types of existing structures on the property.
 - 3. Location and size of adjacent buildings and easements, within the required fall zone.
 - 4. Location of the proposed wind system and any accessories.
 - c. Rights of way of any adjacent public street.
 - d. Notice to utility company on grid interconnected system.
 - 1. No grid interconnected wind energy conversion system shall be installed until evidence has been provided to the City Utilities Director that the appropriate electric power provider has been informed of the customer's intent to install a grid connected customer owned Wind Energy System and that the customer's system meets the utility's approved specifications for interconnection.
 - 2. Off-grid systems are exempt from this requirement.
 - e. Applicant shall provide documentation, from the dealer or manufacturer, that the Wind Energy Conversion has been successfully operated in atmospheric conditions similar to the conditions within the City of Weatherford. The Wind Energy System shall be warranted against any system failures, reasonably expected in severe weather operation conditions.
 - f. Foundation drawings and details with a registered Texas Engineer stamp.
 - g. Tower drawings and details with a registered Texas Engineer stamp.
 - h. A decommissioning plan meeting the requirements of the subsection shall be submitted with the application.
- (4) *Height Requirements.*
- a. The maximum height for a Wind Energy System, measuring from ground level to the tip of a wind generator blade when the blade is at its highest point shall be limited to a maximum of sixty-six (66) feet.
 - b. Regardless of the height of the pole, the tip of the blade shall not be located closer to the ground than twelve (12) feet.
- (5) *Area, Yard, and Lot Requirements.* Location and Setbacks.
- a. A Wind Energy System may only exist as an accessory structure. A WES shall not be erected on a lot until a primary structure has been constructed or is under construction as part of a current building permit.

- b. A WES shall be located in the rear yard and shall be located in the center of the fall zone.
- c. All WES towers shall be monopole.
- d. Guyed towers are prohibited.
- e. No part of the WES may extend into, or across any recorded public easement, unless authorized by the easement holder.

(6) *Additional Regulations for Wind Energy Systems.*

- a. A WES, including tower, shall comply with all City adopted codes and ordinances.
- b. Each WES, that connects to the electric utility, shall comply with all regulations of the Public Utility Commission of Texas and any additional requirements of the utility company having jurisdiction.
- c. Each WES, shall be installed in conformance with the current version of the National Electrical Code, as adopted by the City. All equipment shall be approved, listed and labeled by a nationally recognized electrical listing agency. Where a conflict exists between the installation guidelines of the manufacturer and the current version of the National Electrical Code, the installation guidelines of the manufacturer shall apply.
- d. Each WES shall be grounded, to protect against natural lightning strikes, in conformance with the current version of the National Electrical Code, as adopted by the City.
- e. Each WES shall be equipped with manual and automatic over speed controls.
- f. Each WES shall be designed and constructed to prevent any type of electromagnetic interference.
- g. WES rotors shall have rotor diameters not greater than eighteen (18) feet.
- h. The minimum distance between towers shall be one hundred (100) feet.
- i. A wind tower and generator shall not be artificially lighted, unless such lighting is required by the Federal Aviation Administration.
- j. A minimum of one informational/warning sign, with one (1) such sign located at the base of the tower, shall be installed. Each sign shall be a minimum of two (2) square feet and a maximum of four (4) square feet in area. Each sign shall contain, at a minimum, the manufacturer's or installer's identification, appropriate warnings, emergency phone numbers or owner identification, and emergency shutdown procedures.
- k. Promotional, personal, or advertisement signs are prohibited on the WES.

(7) *Noise.* With the exception of short term intervals, during utility outages and/or severe wind storms, noise levels from a WES shall not exceed sixty (60) dBA, measured at the nearest property line.

(8) *Abandonment.*

a. A WES that is out of service for a continuous twelve (12) month period will be deemed to have been abandoned. The City may issue a Notice of Abandonment to the owner of a WES that is deemed to have been abandoned. The owner shall have the right to respond to the Notice of Abandonment within thirty (30) days from postmark date. The City shall withdraw the Notice of Abandonment, and shall notify the owner that the Notice has been withdrawn, if the owner provides information that demonstrates the WES has not been abandoned.

b. If a WES is determined to be abandoned, the owner of the WES shall remove the wind generator from the tower, at the owner's sole expense, within sixty (60) days of postmark date of the Notice of Abandonment. If the owner fails to remove the wind generator from the tower, the City may pursue a legal action to have the wind generator removed at the owner's expense.

(9) *Decommissioning Plan.*

The permit application must contain a decommissioning plan to ensure the project is properly decommissioned upon facility abandonment. At a minimum, the decommissioning plan shall include:

a. Provisions for the removal of all structures, and underground and above ground cabling, within one hundred eighty (180) days after facility abandonment.

b. Provisions for the restoration of the soil and vegetation within two hundred seventy (270) days after facility abandonment.

Sec. 12-5-9. Sexually oriented businesses.

(a) *Purpose and intent.* It is the purpose of this Section to regulate sexually oriented businesses to promote the health, safety, morals, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the concentration of sexually oriented businesses within the City. The provisions of this Section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this Section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.

(b) *Findings.*

(1) In adopting these regulations the City Council has relied on numerous studies, reports, and findings regarding the harmful effects of sexually oriented businesses on surrounding land uses, and on reported court cases and the factual findings reviewed by those courts.

(2) In considering these regulations evidence concerning the adverse secondary effects of sexually oriented businesses on the community where they are located has been presented in hearings and in the studies, reports and findings referred to below that were made available to the City Council, including findings incorporated into the cases of *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990); *City of Erie v.*

Pap's A.M., 529 U.S. 277, 120 S. Ct. 1382 (2002); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *Woodall v. City of El Paso (Woodall I)*, 959 F.2d 1305 (5th Cir. 1992); *Woodall v. City of El Paso (Woodall II)*, 49 F.3d 1120 (5th Cir. 1995); *Lakeland Lounge of Jackson, Inc. v. City of Jackson*, 973 F.2d 1255 (5th Cir. 1992); *Topanga Press, Inc. v. City of Los Angeles*, 989 F.2d 1524 (9th Cir. 1993); *Baby Dolls Topless Saloons, Inc. v. City of Dallas*, 295 F.3d 471 (5th Cir. 2002); *LLEH, Inc. v. Wichita County, Texas*, 289 F.3d 358 (5th Cir. 2002); *Mitchell v. Commission on Adult Entertainment*, 10 F.3d 123 (3d Cir. 1993); *Encore Videos, Inc. v. City of San Antonio*, 330 F.3d 288 (5th Cir. 2003); *Lady J. Lingerie, Inc. v. City of Jacksonville*, 176 F.3d 1358 (11th Cir. 1999); *N.W. Enters. Inc. v. City of Houston*, 352 F.3d 162, on rehearing 372 F.3d 333 (5th Cir. 2004); *Fantasy Ranch, Inc. v. Tazz Man, Inc.*, No. 3:03 CV 0089 R, 2004 WL 1779014 (N.D. Tex. Aug. 9, 2004); *Hang On, Inc. v. City of Arlington*, 65 F.3d 1248 (5th Cir. 1995); *Robinson v. City of Longview*, 936 S.W.2d 413 (Tex. App.BTyler 1996, no writ); *People of the State of Illinois v. The Lion's Den, Inc.*, Circuit Court of the Fourth Judicial Circuit, Effingham County, Illinois, filed June 10, 2005; *Illinois One News, Inc. V. City of Marshall*, 2006 WL 449018 (S.D. Ill. 2006); *Fantasy Ranch, Inc. v. City of Arlington*, ---F.3d---, 2006 WL 2147559 (5th Cir. Aug. 2, 2006).

(3) Studies, reports and findings conducted by the City of Amarillo, Texas, the City of Austin, Texas, the City of Beaumont, Texas, the City of Dallas, Texas, the City of El Paso, Texas, the City of Fort Worth, Texas, the City of Houston, Texas, the City of Indianapolis, Indiana, the City of Kennedale, Texas, the Attorney General of the State of Minnesota, the City of Garden Grove, California, the City of Los Angeles, California, the Attorney General's Commission on Pornography, the City of Sioux City, Iowa, the City of Las Vegas, Nevada, and the City of Oklahoma City, Oklahoma; and publications written by recognized experts regarding the harmful secondary effects of sexually oriented businesses on surrounding land uses have been presented to and reviewed by the City Council and made part of the public record.

(4) The City Council finds that the cities represented in the relevant studies, reports and findings reviewed by the City have similar community characteristics to those of the City in relevant respects.

(5) The City Council finds, based on the above studies, reports and findings, as well as the Attorney General's Commission on Pornography, that sexually oriented businesses have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime and the downgrading of property values, and municipal regulation aimed at reducing adverse secondary effects is the most effective and appropriate mechanism to make the owners of these establishments responsible for the activities that occur on their premises.

(6) The City Council finds, based in part upon the results of the Survey of Fort Worth and Dallas Appraisers, September 2004, that sexually oriented businesses that engage in only retail sales or rental of sexually oriented adult merchandise for off premise use have adverse effects on surrounding property values and the ability of surrounding properties to sell or develop, similar to the adverse effects generated by sexually oriented businesses which offer on-site adult entertainment.

(7) The City Council finds, based in part upon the reports/affidavit of Dr. Richard McCleary to the City of Kennedale and the City of Sioux City, that sexually oriented businesses that engage in only retail sales or rental of sexually oriented adult merchandise for off premise use cause public safety or crime-related adverse effects on the surrounding community, similar to the adverse effects generated by sexually oriented businesses which offer on-site adult entertainment.

(8) The City Council finds, based on the above studies, reports and findings presented to the City Council that it is reasonably likely that these adverse secondary effects will occur in the City.

(9) The City Council desires to minimize and control the adverse secondary effects of sexually oriented businesses and thereby protect the health, safety and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve and protect property values and the character of surrounding neighborhoods; and deter the spread of urban blight.

(10) The City has a legitimate and substantial governmental interest in limiting the detrimental secondary effects associated with sexually oriented businesses as a means of promoting the public health, safety and welfare.

(11) The City Council finds that a reasonable number of locations are available within the city limits of the City and within surrounding areas for the operation of sexually oriented businesses including sexually oriented businesses that engage in only retail sales or rental of sexually oriented adult merchandise for off premise use.

(12) The City Council finds that these amendments have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials, nor do these amendments have the effect of restricting or denying access by adults to sexually oriented materials protected by the First Amendment, or deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.

(c) *Definitions.* For purposes of this Section, the following special definitions shall apply.

The words and terms used in this Ordinance that are not defined herein shall have the meanings commonly ascribed to them. Words used in the present tense include the future tense. Words in the singular number include the plural number and words in the plural number include the singular number. The word "he" shall be defined to include the word "she."

Adult arcade means any place to which the public is permitted or invited wherein coin-operated, token-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time, and where the images so displayed are distinguished or characterized by an emphasis on matter depicting or describing specified sexual activities or specified anatomical areas.

Adult bookstore means a commercial establishment which as one (1) of its business purposes offers for sale or rental for any form of consideration books, magazines, periodicals or other

printed matters, or any combination thereof, which are distinguished or characterized by an emphasis on matters depicting or describing specified sexual activities or specified anatomical areas.

Adult cabaret means a nightclub, bar, restaurant, or similar commercial establishment which regularly features persons who appear in a state of nudity or give live performances which are distinguished or characterized by an emphasis on the exposure of specified anatomical areas or by an emphasis on specified sexual activities.

Adult motel means a hotel, motel or similar commercial establishment which:

- (1) Offers accommodations to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other pornographic reproductions which are distinguished or characterized by an emphasis on matters depicting or describing specified sexual activities or specified anatomical areas and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or
- (2) Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
- (3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

Adult movie theater means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, video reproductions, slides or other visual representations, or any combination thereof, are regularly shown which are distinguished or characterized by an emphasis on matters depicting or describing specified sexual activities or specified anatomical areas.

Adult novelty store means a commercial establishment which as one (1) of its business purposes offers for sale or rental for any form of consideration any one (1) or more of the following:

- (1) Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, videocassettes or video reproductions, slides, objects, or other visual representations which depict or describe specified sexual activities or specified anatomical areas; or
- (2) Instruments, devices, or paraphernalia which are designed or manufactured for use in connection with specified sexual activities. This does not include items used for birth control or for prevention of sexually transmitted diseases.

Adult service establishment means a commercial establishment which offers services or sells products to customers and in which one (1) or more of the employees or the customer appears in a state of nudity or simulated nudity.

Adult video store means a commercial establishment which as one (1) of its business purposes offers for sale or rental for any form of consideration photographs, films, motion pictures, video cassettes, video reproductions, slides or other visual representations, or any combination thereof, which are distinguished or characterized by an emphasis on matters depicting or describing specified sexual activities or specified anatomical areas.

Chief of Police means the Chief of Police of the City of Weatherford or the chief's designated representative.

Customer means any person who:

- (1) Is allowed to enter a sexually oriented business in return for the payment of an admission fee or any other form of consideration or gratuity; or
- (2) Enters a sexually oriented business and purchases, rents, or otherwise partakes of any merchandise, goods, entertainment, or other services offered therein; or
- (3) Is a member of and on the premises of a sexually oriented business operating as a private club.

Employee means any person who renders any service whatsoever to the customers of a sexually oriented business or who works in or about a sexually oriented business and who receives compensation for such service or work from the operator or owner of the sexually oriented business or from its customers.

Escort means a person who, for consideration, agrees or offers to act as a companion or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Escort agency means a person or business association who, as one (1) of its principal business purposes, furnishes, offers to furnish, or advertises to furnish escorts, or any combination thereof, for a fee, tip, or other consideration.

Licensee means a person in whose name a license to operate a sexually oriented business has been issued, as well as any and all individuals listed as applicants on the application for a license.

Licensed day-care center means a day-care center as defined in this Ordinance.

Manager means any person (1) who supervises, directs or manages any employee of a sexually oriented business or (2) who is charged by the licensee, owner, or operator with directly supervising the operation of the sexually oriented business and with monitoring and observing all areas of the enterprise to which customers are admitted at all times during which the enterprise is open for business or customers are on the premises.

Nude modeling studio means any place where a person who appears in a state of nudity or displays specified anatomical areas is provided or allowed to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration.

Nudity or state of nudity means less than completely and opaquely covered:

- (1) Human genitals, pubic region, or pubic hair;
- (2) All portions of a female breast below a point immediately above the top of the areola continuing downward to the lowest portion of the breast;
- (3) Human buttock; or
- (4) Any combination of the above.

Operated or causes to be operated means to cause to function or to put or keep in operation. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner, licensee, or manager of the establishment.

Person means an individual, firm, association, organization, partnership, trust, foundation, company or corporation.

Regularly means featuring, promoting, or advertising a happening or occurrence on a recurring basis.

Residential district means a district zoned for residential uses under the Zoning Ordinance of the City of Weatherford.

Residential use means a one-family, townhouse, duplex, triplex, fourplex, mobile home, manufactured home, or multiple-family dwelling as defined in the Zoning Ordinance of the City of Weatherford.

Sex parlor means an establishment that is operated for the purpose of giving massages, at the establishment or on a home-call basis, which are intended to provide sexual stimulation or sexual gratification in combination with a massage.

Sexual encounter center means a business or commercial enterprise that offers for any form of consideration physical contact in the form of wrestling or tumbling between persons of the opposite sex, or activities between male and female persons and/or persons of the same sex, when one (1) or more of the persons is in a state of nudity or simulated nudity.

Sexually oriented business means an adult arcade, adult bookstore, adult cabaret, adult novelty store, adult motel, adult movie theater, adult service establishment, adult video store, sex parlor, sexual encounter center, nude modeling studio or other commercial enterprise, or any combination thereof, which devotes a significant or substantial portion of its business to the offering of a service or the selling, renting or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to its customers, and which is distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, or whose employees or customers appear in a state of nudity. As used in this definition, "significant or substantial portion" shall be construed with reference to all relevant factors, including but not limited to the following:

- (1) Whether the business uses advertising or signage identifying the business as having sexually explicit merchandise or services for sale, rental, or viewing, including the use of terms such as "adult," "sex," or "XXX;"
- (2) The proportion of retail floor space, display areas, presentation time, or stock in trade devoted to sexually explicit content (Stock in trade shall be measured with all titles or objects available on the premises for sale or rental including those that are identical, considered a separate title or object.);
- (3) The percentage of the business's overall sales or revenues attributable to sexually explicit content; and
- (4) The percentage of sales or revenues attributable to sexually explicit content within each category of merchandise, including books, magazines, movies for rental, movies for

sale, movies for on-site viewing, performances, sexual paraphernalia, or other products or services.

The term "sexually oriented business" shall not be construed to include:

- (1) Any business operated by or employing licensed psychologists, licensed physical therapists, registered massage therapists, registered nurses, or licensed athletic trainers engaged in practicing such licensed professions;
- (2) Any business operated by or employing licensed physicians or licensed chiropractors engaged in practicing the healing arts;
- (3) Any retail establishment whose principal business is the offering of wearing apparel for sale to customers, which does not exhibit merchandise on live models, and which does not offer for sale or rental any:
 - a. Materials of any kind containing depictions of specified anatomical areas; or
 - b. Instruments, devices, or paraphernalia which are designed or manufactured for use in connection with specified sexual activities; or
- (4) Any activity conducted or sponsored by any Texas independent school district, licensed or accredited private school, or public or private college or university.

Simulated nudity means a state of dress in which any device or covering is worn and exposed to view that simulates any part of the genitals, buttocks, anus, pubic region, or areola of the female breast.

Specified anatomical areas means human genitals, pubic regions, buttocks and female breast below a point immediately above the top of the areola.

Specified sexual activities means and includes any of the following:

- (1) The fondling or other erotic touching of human genitals, pubic region, pubic hair, perineum, buttocks, anus, or female breasts;
- (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, sodomy, or bestiality;
- (3) Masturbation, actual or simulated; or
- (4) Excretory functions.

(d) *Hours of operation.* No sexually oriented business, except for an adult motel, may remain open at any time between the hours of 12:00 a.m. (midnight) and 8:00 a.m. on weekdays and Saturdays, and 12:00 a.m. (midnight) and 2:00 p.m. on Sundays.

(e) *Location.*

A person commits an offense if he establishes, operates or causes to be operated, or expands a sexually oriented business at a location other than the following:

- (1) LOT 3, BLOCK C HOBSON INDUSTRIAL PARK, SECTION II, an addition to the City of Weatherford, Parker County, Texas, according to the plat recorded in Plat Cabinet B, Slide 063, Parker County Plat Records, Parker County, Texas; or

(2) LOT 3, FT. WORTH – SPRING STREET RETAIL ADDITION, an addition to the City of Weatherford, Parker County, Texas, according to the plat recorded in Plat Cabinet B, Slide 621, Parker County Plat Records, Parker County, Texas; or

(3) LOT 1, GROTE SUBDIVISION, an addition to the City of Weatherford, Parker County, Texas, according to the plat recorded in Plat Cabinet B, Slide 671, Parker County Plat Records, Parker County, Texas.

(f) *Nonconforming uses.*

(1) Any sexually oriented business that is in violation of subsection (e) or any other location requirement of any other city ordinances, that was legally operating on the effective date of adoption or amendment of such ordinance or regulation, shall be deemed a nonconforming use and the provisions of this Ordinance shall apply, except if two (2) or more sexually oriented businesses are within one thousand (1,000) feet of each other, or are located in the same building or structure, and otherwise in a permissible location, the sexually oriented business that was first established and continually operating as a sexually oriented business at a particular location (regardless of which business was first located in the city), even if operating under a different name, ownership, or selling different sexually oriented merchandise or services, is the conforming use and the later-established business is nonconforming.

(2) The provisions of this subsection shall also apply to legally operating sexually oriented businesses made nonconforming by annexation into the city limits.

(3) Any sexually oriented business that is lawfully operating within the City as a conforming use on or after the effective date of this Ordinance, shall not be rendered a nonconforming use by the subsequent location of a protected use listed in subsection (e)(1) within one thousand (1,000) feet of the sexually oriented business.

(4) Nonconforming sexually oriented businesses shall be subject to amortization under the procedures set forth herein.

(5) Notwithstanding anything contained in this Ordinance to the contrary, a nonconforming sexually oriented business shall be required to meet all applicable requirements of this Ordinance except locational requirements established by subsections (e)(1) through (e)(3) and the prohibition on nudity established by subsection 19 within sixty (60) days of the date that it becomes nonconforming. The Board of Adjustment may grant a nonconforming sexually oriented business an extension if the business shows, upon written application, that meeting these requirements within sixty (60) days imposes an unnecessary hardship on the business.

(g) *License required.*

(1) A person commits an offense if he operates or causes to be operated a sexually oriented business without a valid sexually oriented business license or nonconforming sexually oriented business license, issued by the City for the particular type of business.

(2) The applicant must be qualified according to the provisions of this Ordinance.

(3) The fact that a person possesses other types of state or City permits or licenses does not exempt the person from the requirement of obtaining a license for a sexually oriented business.

(h) *Same; application.*

(1) Any person desiring to obtain a sexually oriented business license shall make application on a form provided by the Chief of Police. The application must:

- a. Be accompanied by a diagram of the premises showing a plan of the premises, specifying the location of all overhead lighting fixtures, designating any portion of the premises in which customers will not be permitted, and specifying the location of all manager's stations, if applicable. The diagram shall designate the place at which the license will be conspicuously displayed, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6) inches;
- b. Contain all information required pursuant to subsection (i) and be supported by any necessary documentation;
- c. Include a current list of all employees or prospective employees, along with copies of complete updated employment application, valid driver's license, state identification card, or passport containing a photograph of the employee;
- d. Contain any other information requested by the Chief of Police in order to assist the Chief in deciding whether to grant the license; and
- e. Be sworn to be true and correct by the applicant.

(2) If a person who wishes to operate a sexually oriented business is an individual, he must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a twenty (20) percent or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under subsection (i) and each applicant shall be considered a licensee if a license is granted.

(3) All applications for a license under this Section shall be accompanied by a nonrefundable application fee of five hundred dollars (\$500.00). An application shall not be considered to have been filed until the fee is paid and all information required by the application form has been submitted.

(4) The Chief of Police may obtain criminal history record information maintained by the Texas Department of Public Safety from the Texas Department of Public Safety for any person required to sign the application under this Section.

(i) *Same; issuance.*

(1) The Chief of Police shall approve the issuance of a license to an applicant within thirty (30) days after filing of an application unless the Chief of Police finds one (1) or more of the following to be true:

- a. The location of the sexually oriented business is or will be in violation of subsection 5 and no exemption has been granted under subsection (bb).
- b. The applicant failed to supply all of the information requested on the application.
- c. The applicant gave false, fraudulent, or untruthful information on the application.
- d. An applicant is under eighteen (18) years of age.
- e. An applicant or an applicant's spouse is overdue in payment to the city of taxes, fees, fines, or penalties assessed against or imposed upon the applicant or the applicant's spouse in relation to a sexually oriented business.
- f. An applicant or an applicant's spouse has been convicted of a violation of a provision of this Section, other than the offense of operating a sexually oriented business without a license, within two (2) years immediately preceding the application. The fact that a conviction is being appealed shall have no effect on the denial of a license.
- g. The application or renewal fee required by this Section has not been paid.
- h. The applicant has not demonstrated that the owner of the sexually oriented business owns or holds a lease for the property or the applicable portion thereof within which the sexually oriented business will be situated or has a legally enforceable right to acquire the same.
- i. An applicant or the proposed establishment is in violation of or is not in compliance with subsection (k) or (p).
- j. An applicant or an applicant's spouse has been convicted of a crime:
 - 1. Involving:
 - i. Any of the following offenses as described in V.T.C.A., Penal Code ch. 43:
 - a) Prostitution;
 - b) Promotion of prostitution;
 - c) Aggravated promotion of prostitution;
 - d) Compelling prostitution;
 - e) Obscenity;
 - f) Sale, distribution, or display of harmful material to a minor;
 - g) Sexual performance by a child;
 - h) Possession of child pornography;
 - ii. Any of the following offenses as described in V.T.C.A., Penal Code ch. 21:

- a) Public lewdness;
- b) Indecent exposure;
- c) Indecency with a child;

iii. Sexual assault or aggravated sexual assault as described in V.T.C.A., Penal Code ch. 22;

iv. Incest (prohibited sexual conduct), enticing a child, or harboring a runaway child as described in V.T.C.A., Penal Code, ch. 25;

v. Possession or distribution of a controlled substance; or

vi. Criminal attempt, conspiracy, or solicitation to commit any of the foregoing offenses; and

2. For which:

i. Less than two (2) years have elapsed since the date of conviction, or the date of release from the terms of probation, parole, or deferred adjudication, or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

ii. Less than five (5) years have elapsed since the date of conviction, or the date of release from the terms of probation, parole, or deferred adjudication, or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a felony offense; or

iii. Less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses or combination of misdemeanor offenses occurring within any two-year period.

k. For an existing business, the business is in violation of any other applicable requirement of this Section.

(2) The fact that a conviction of the applicant or applicant's spouse is being appealed shall have no effect on the disqualification.

(3) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the sexually oriented business.

(4) The license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.

(j) *License for nonconforming sexually oriented business.*

(1) Notwithstanding anything contained in this Section to the contrary, the Chief of Police shall issue a nonconforming sexually oriented business license to a nonconforming sexually oriented business under subsection (f) if the Chief of Police finds:

- a. A proper application for a license has been made in accordance with this Section;

- b. The applicant would qualify for a license under the provisions of subsection (i)(1)b. through (i)(1)k.;
 - c. The sexually oriented business is a nonconforming use under the provisions of subsection (f);
 - d. The building in which the applicant proposes to locate the sexually oriented business is not a dangerous or substandard building pursuant to applicable ordinances of the City; and
 - e. The sexually oriented business complies with all other requirements of this Section.
- (2) A nonconforming sexually oriented business license issued under this Section shall be subject to expiration, suspension, revocation, appeal, transfer and all other requirements of this Section that are applicable to sexually oriented business licenses.
- (3) The issuance of a nonconforming sexually oriented business license shall not be deemed to make the sexually oriented business a legal use or to grant any other rights or waivers other than to allow the nonconforming sexually oriented business to operate in compliance with subsection (g)(1).

(k) *Inspection and maintenance of records.*

- (1) An applicant or licensee shall permit representatives of the Police department, Health department, Fire department, and Building Inspections division to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time during the thirty (30) day application period or after it is occupied or open for business. The provisions of this subsection do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.
- (2) A person who operates a sexually oriented business or his agent or employee commits an offense if he refuses to permit a lawful inspection of the premises by a representative of the Police department, Health department, Fire department, or Building Inspections division at any time during the thirty (30) day application period or after it is occupied or open for business.
- (3) A person who operates a sexually oriented business or his agent or employee commits an offense if he operates the establishment without maintaining a current list of all employees employed by the business, along with a complete updated employment application. Each employment application shall include a copy of a valid driver's license, state identification card, or passport, all with a photo.

(l) *Expiration of license.*

- (1) Each license shall expire one (1) year from the date of issuance.
- (2) A license may be renewed by submission to the Chief of Police of an application on the form prescribed by the Chief of Police and payment of a nonrefundable renewal processing fee of five hundred dollars (\$500.00).
- (3) Application for renewal shall be made at least thirty (30) days before the expiration date of the license. If application is made less than thirty (30) days before the expiration

date and the new license is granted after the expiration of the previous license, the new license shall still expire in one (1) year from the previous expiration date.

(m) *Suspension.*

(1) The Chief of Police shall suspend a license for a period not to exceed thirty (30) days if he determines that a licensee or an employee or spouse of a licensee:

- a. Has violated or is not in compliance with subsection (k);
- b. Is in a state of public intoxication while on the sexually oriented business premises;
- c. Knowingly permits gambling by any person on the sexually oriented business premises; or
- d. Is delinquent in payment to the city for taxes, fees, fines, or penalties assessed against or imposed on the licensee or the licensee's employee or spouse in relation to a sexually oriented business.

(2) When the Chief of Police is authorized to suspend a license under this subsection, he shall give the licensee the opportunity to pay a reinstatement fee of two hundred dollars (\$200.00) rather than have the license suspended. In addition to and included as a part of the reinstatement fee, a licensee whose license is suspended for a violation of subsection (1)d. must pay all delinquent taxes, fees, fines, or penalties before the license will be reinstated.

- a. Payment of this reinstatement fee shall be considered an administrative admission of the violation. However, this shall not be used as an admission of guilt in a criminal prosecution under this Section.
- b. If the licensee does not pay the reinstatement fee before the expiration of the third working day after notification, he loses the opportunity to pay it and the Chief of Police shall impose the suspension.
- c. Each day in which a violation is permitted to continue shall constitute a separate cause for suspension.

(n) *Revocation.*

(1) The Chief of Police shall revoke a license if a cause of suspension in subsection (m) occurs and the license has been suspended or a reinstatement fee paid within the preceding twelve (12) months.

(2) The Chief of Police shall revoke a license if he determines that:

- a. One (1) or more statements contained in subsection (i)(1) is true;
- b. The licensee violated or is not in compliance with subsection (e) or (p);
- c. The licensee or an employee of the licensee knowingly allowed possession, use, or sale of a controlled substance on the sexually oriented business premises;
- d. The licensee or an employee of the licensee knowingly allowed prostitution on the sexually oriented business premises;

- e. The licensee or an employee of the licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;
 - f. On two (2) or more occasions within a twelve-month period, an employee of the licensee committed in or on the sexually oriented business premises an offense listed in subsection (i)(1)j. for which a conviction or a deferred adjudication or other form of probation has been obtained; or
 - g. The licensee or an employee of the licensee knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in or on the sexually oriented business premises. The term "sexual contact" shall have the same meaning as it is defined in V.T.C.A., Penal Code § 21.01.
- (3) The fact that a conviction is being appealed shall have no effect on the revocation of the license.
- (4) Subsection (n)(2)g. does not apply to adult motels as a ground for revoking the license unless the licensee or employee knowingly allowed the act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in a public place or within public view.
- (5) When the Chief of Police revokes a license, the revocation shall continue for one (1) year and the licensee shall not be issued a sexually oriented business license for one (1) year from the date revocation became effective. If, subsequent to revocation, the Chief of Police finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective. If the license was revoked under subsection (n)(2)a. for an offense listed in subsection (i)(1)j. for which the time period required has not elapsed, an applicant may not be granted another license until the appropriate number of years required under subsection (i)(1)j. has elapsed.
- (o) *Appeal.*
- (1) If the Chief of Police is authorized to deny the issuance of a license, or suspend or revoke a license as provided in this Section, the Chief of Police shall give written notice to the applicant or licensee of such intention and the basis for the denial, suspension, or revocation.
- a. The notice of intent shall provide that the denial of issuance, or the suspension or revocation shall be effective at the expiration of the third working day after the Chief of Police gave the notification, unless the applicant or licensee provides a written response to the Chief of Police before the expiration of the third working day.
 - b. If the Chief of Police receives a timely written response from the applicant or licensee, the denial of issuance, or the suspension or revocation will be stayed pending a final decision by the Chief of Police.
- (2) The Chief of Police may request from the applicant or licensee any additional information necessary to finally decide whether to deny, suspend, or revoke a license.
- (3) After reviewing the written response from and any additional information submitted by the applicant or licensee, the Chief of Police shall render a final written decision. The

Chief of Police shall deliver this final decision to the applicant or licensee by hand delivery or by certified mail, return receipt requested, to the address provided on the application.

(4) The final decision by the Chief of Police shall be final and effective immediately.

(5) Upon receipt of written notice of denial, suspension, or revocation, the applicant or licensee shall have the right to appeal to district court. If the Chief of Police denies, suspends, or revokes the license because the location of the sexually oriented business is or would be in violation of the locational requirements of subsection (e), the applicant may request an exemption from the location appeal board pursuant to subsection (bb).

(6) The appeal to district court must be filed within thirty (30) days after:

- a. The applicant or licensee receives notice of the Chief of Police's decision; or
- b. The location appeal board denies the exemption.

(7) The licensee or applicant shall bear the burden of proof in court.

(p) *Transfer.*

(1) A person commits an offense if he transfers his license to another person or operates a sexually oriented business under the authority of a license at any place other than the address designated in the application.

(2) A person commits an offense if he counterfeits, forges, changes, defaces, or alters a license.

(q) *Additional regulations; adult cabarets.*

(1) An employee of an adult cabaret while appearing in a state of nudity or simulated nudity commits an offense if he touches a customer or the clothing of a customer.

(2) A customer at an adult cabaret commits an offense if he touches an employee appearing in a state of nudity or simulated nudity.

(3) Each adult cabaret shall have a manager's station, which shall not exceed thirty-two (32) square feet of floor area. A licensee or employee of an adult cabaret commits an offense if he permits any customer access to an area of the premises not visible from the manager's station or not visible by a walk-through of the premises without entering a closed area, excluding restrooms. The view required in this subsection shall be by direct line of sight. The view shall be deemed insufficient if clear visibility of such line of sight must be attained by using flashlights or spotlights in addition to overhead house lighting.

(4) No employee of an adult cabaret may appear in an area of the business visible to patrons or customers unless the employee completely and opaquely covers his or her genitals, pubic region, and pubic hair; anus; and, if female, her areolae. In addition, the employee is subject to the requirements of subsection (r).

(5) No licensee, owner, operator, or manager of an adult cabaret shall permit an employee to violate subsection (4) above.

(6) A licensee, operator or employee commits an offense if the licensee, operator or employee appears in a state of nudity or knowingly allows another to appear in a state of nudity in an area of the adult cabaret which can be viewed from the public right-of-way.

(7) A licensee shall designate and appoint one or more managers to manage, direct, and control the premises and operations of an adult cabaret. At least one (1) manager shall be on the premises at any time the adult cabaret is open for business.

(8) A licensee or manager commits an offense if the adult cabaret fails to display the floor markings as required in subsection 18(d) of this Section.

(9) An operator or a manager appointed under this Section shall at all times have the duty to ensure that each employee in the adult cabaret has been instructed to commit no act which would constitute a violation of this Ordinance or which would provide grounds, or part of the grounds, for suspension or revocation of a license issued under this Section.

(r) *Additional regulations; public nudity.*

(1) A licensee, operator, or employee commits an offense if the licensee, operator, or employee appears in a state of nudity or knowingly allows another person to appear in a state of nudity in a sexually oriented business, unless the person is an employee who, while in a state of nudity, is on a stage (on which no patron or customer is present) that is at least eighteen (18) inches above the floor, and that is at least six (6) feet from any patron or customer.

(2) It is an offense for an employee, while in a state of nudity in a sexually oriented business, to receive directly any pay or gratuity from any patron or customer, or for any patron or customer to pay or give any gratuity directly to any employee, while that employee is in a state of nudity in a sexually oriented business. Such gratuity or pay may be provided to such an employee through a tip receptacle, located more than six (6) feet from the nearest point of the performance stage where the employee is in a state of nudity, or may be paid to an employee that is not in a state of nudity, as part of the customer's bill.

(3) A licensee or operator commits an offense if the licensee or operator fails to display a sign on the interior of the sexually oriented business premises notifying patrons and customers and employees of the prohibitions described in this subsection. The sign must be prominently and continuously displayed where patrons or customers enter the premises, and immediately adjacent to each performance stage, and must state in letters at least two (2) inches high:

TOUCHING OR TIPPING AN EMPLOYEE WHO IS IN A STATE OF NUDITY IS A CRIME (MISDEMEANOR) PUNISHABLE BY A FINE OF UP TO \$2,000.00. PATRONS SHALL REMAIN AT LEAST SIX FEET FROM ALL PERFORMANCE STAGES.

The Chief of Police may also require, at the time of issuance or renewal of the license, the licensee to display the sign in a language other than English if he determines that a substantial portion of the expected patrons or customers speak the other language as their familiar language. Upon notification, a licensee commits an offense if the sign does not contain this language in the required language, in addition to English.

(4) A licensee or operator commits an offense if the licensee or operator fails to prominently and continuously display a glow-in-the-dark line on the floor of the sexually oriented business, at least two (2) inches wide, marking a distance of six feet from each performance stage on which an employee in a state of nudity may appear in accordance with subsection (1) above.

(s) *Prohibition of nudity in certain commercial establishments.*

(1) *Purpose.* The purpose of this Section is to prohibit certain acts of commercial exploitation of human sexuality in commercial establishments where alcoholic beverages are served or offered for sale for consumption on the premises, or permitted to be consumed on the premises, and to reduce the likelihood of criminal activity, moral degradation and disturbances of the peace and good order of the community, to prohibit lewd and unlawful activity, such as prostitution and the proliferation of controlled substances, all of which may occur when such commercial exploitation is permitted in such places, and to promote the preservation of property values of neighborhoods and adjacent properties.

(2) *Prohibition.*

a. No person shall appear in a state of nudity or simulated nudity in any commercial establishment at which alcoholic beverages are served or offered for sale for consumption on the premises, or permitted to be consumed on the premises.

b. No licensee, owner, operator, or manager of any commercial establishment at which alcoholic beverages are served or offered for sale for consumption on the premises, or are permitted to be consumed on the premises, shall permit any person to appear in a state of nudity.

(3) *Nonconforming uses.*

Any business that was legally operating on the effective date of adoption or amendment of this Ordinance shall be deemed a nonconforming use as to the prohibition established in this subsection and shall be subject to the provisions of the zoning ordinance.

(t) *Same; escort agencies.*

(1) A person commits an offense if he employs at an escort agency any person under the age of eighteen (18) years.

(2) A person commits an offense if he acts as an escort or agrees to act as an escort for any person under the age of eighteen (18) years.

(u) *Same; nude model businesses.*

(1) A person commits an offense if he employs at a nude model business any person under the age of eighteen (18) years.

(2) A person under the age of eighteen (18) years commits an offense if he appears in a state of nudity or simulated nudity in or on the premises of a nude model business. It is a defense to prosecution under this subsection if the person was in a restroom not open to public view or persons of the opposite sex.

(3) A person commits an offense if he appears in a state of nudity or simulated nudity, or knowingly allows another to appear in a state of nudity or simulated nudity, in an area of a nude model business premises which can be viewed from the public right-of-way.

(4) A person commits an offense if he places or permits a bed, sofa, or mattress in any room on the premises of a nude model business except that a sofa may be placed in a reception room open to the public.

(5) A licensee or employee of a nude model business commits an offense if he permits any customer access to an area of the premises not visible from the manager's station or not visible by a walk through of the premises without entering a closed area, excluding restrooms.

(6) An employee of a nude model business, while appearing in a state of nudity or simulated nudity, commits an offense if he touches a customer or the clothing of a customer.

(7) A customer at a nude model business commits an offense if he touches an employee appearing in a state of nudity or simulated nudity.

(v) *Same; adult theaters and adult motion picture theaters.*

(1) A person commits an offense if he knowingly allows a person under the age of eighteen (18) years to appear in a state of nudity or simulated nudity in or on the premises of an adult theater or adult motion picture theater.

(2) A person under the age of eighteen (18) years commits an offense if he knowingly appears in a state of nudity or simulated nudity in or on the premises of an adult theater or adult motion picture theater.

(3) It is a defense to prosecution under subsections (1) and (2) above if the person under eighteen (18) years was in a restroom not open to public view or persons of the opposite sex.

(w) *Same; adult motels.*

(1) Evidence that a sleeping room in a hotel, motel, or similar commercial establishment has been rented and vacated two (2) or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the establishment is an adult motel.

(2) A person commits an offense if, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented business license, he rents or sub-rents a sleeping room to a person and, within ten (10) hours from the time the room is rented, he rents or sub-rents the same sleeping room again.

(3) For purposes of subsection (1) above, the terms "rent" or "sub-rent" mean the act of permitting a room to be occupied for any form of consideration.

(x) *Regulations pertaining to exhibition of sexually explicit films or videos.*

A sexually oriented business other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video

cassette, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

- (1) Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises as required by subsection (h)(1)a. The diagram shall show the location of the manager's stations. A manager's station shall not exceed thirty-two (32) square feet of floor area.
- (2) No alteration in the configuration or location of a manager's station may be made without the prior approval of the Chief of Police.
- (3) The licensee commits an offense if he permits a manager's station to be unattended by a designated manager at any time a customer is present on the premises.
- (4) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any customer is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two (2) or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any customer is permitted access for any purpose, excluding restrooms, from at least one (1) of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station. The view shall be deemed insufficient if clear visibility of such line of sight must be attained by using flashlights or spotlights in addition to overhead house lighting.
- (5) The licensee or manager commits an offense if he permits access to a customer of any area of the premises that is not visible from the manager's station for any purpose, excluding restrooms.
- (6) The owners, operator, and any agents and employees present on the premises shall ensure that the view area specified in subsection (5) above, remains unobstructed by any doors, walls, merchandise, display racks, or other materials at all times that any customer is present in the premises and to ensure that no customer is permitted access to any area of the premises which has been designated as an area in which customers will not be permitted in the application filed pursuant to subsection (1) above.
- (7) No viewing rooms or booths of less than one hundred fifty (150) square feet of floor space shall be occupied by more than one (1) person at any time.
- (8) No licensee or manager shall allow openings or holes of any kind to exist between adjacent or adjoining viewing rooms or booths.
- (9) No person shall make or attempt to make an opening or hole of any kind between adjacent or adjoining viewing rooms and booths.
- (10) The licensee and any manager shall have a duty, during each business day, regularly to inspect the walls of all viewing rooms or booths to determine if any openings or holes exist.

(11) The licensee or any manager commits an offense if he permits any patron or customer access to a viewing room or booth where any opening or hole exists into an adjacent or adjoining viewing room or booth.

(12) This subsection shall not prohibit conduits for plumbing, heating, air conditioning, ventilation or electrical service, if the conduits are screened or otherwise configured so as to prevent their use as openings that would permit any portion of a human body to penetrate the wall or barrier separating viewing rooms or booths.

(y) *Additional regulations for sexually oriented businesses.*

(1) Public and employee restrooms in a sexually oriented business shall not, at any time, contain or be used for sexually oriented business activity, video reproduction equipment, or sexually oriented merchandise.

(2) An adult arcade, adult bookstore, adult video store, adult novelty store, adult service establishment, adult cabaret, adult theater, adult motion picture theater, nude model business, sex parlor, and sexual encounter center shall at all times maintain at least one (1) legible sign posted in a conspicuous place at each public entrance easily visible by all persons prior to entry into the establishment with lettering of at least one (1) inch in height in English and Spanish which contains the following statement:

"THIS IS A SEXUALLY ORIENTED BUSINESS ESTABLISHMENT WHICH REGULARLY FEATURES [description of the type of activity licensed to be conducted]. IF NUDITY OR ACTIVITY OF A SEXUAL NATURE OFFENDS YOU DO NOT ENTER. NO PERSONS UNDER EIGHTEEN YEARS OF AGE ALLOWED ENTRY [or "NO PERSON UNDER TWENTY-ONE YEARS OF AGE ALLOWED ENTRY, " if alcohol is served].

(3) The premises of any sexually oriented business shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than twenty (20) footcandles.

(4) During hours of darkness when a sexually oriented business is in operation, all required parking and all outdoor areas to which pedestrians have access on the premises of the sexually oriented business shall be lighted to an intensity of not less than five (5) footcandles measured at ground level.

(5) No models, mannequins, pictures, drawings, sketches, or other live or simulated, pictorial or graphic displays of nudity or simulated nudity shall be allowed in a manner that is visible to the public from any street, sidewalk, or other public place.

(6) The licensee commits an offense if he violates subsection (3), (4), or (5) above.

(z) *Employee permits.*

(1) *Permit required.*

a. It shall be unlawful for any person who does not hold a permit to act as a manager or employee of a sexually oriented business.

b. It shall be the duty of the licensee, operator and owners of each sexually oriented business to ensure that no person acts as a manager or employee of a sexually oriented business unless that person holds a permit.

(2) *Issuance of permits.*

a. Any person who desires to obtain an original or renewal permit shall make application in person at the offices of the Police department between the hours of 8:00 a.m. and 12:00 p.m., Monday through Friday, city observed holidays excepted. The application shall be made under oath upon a form prescribed by the Chief of Police and shall include:

1. The name, home street address and mailing address (if different) of the applicant;
2. Proof of the date of birth of the applicant and the identity of the applicant, including at least one photographic identity card issued by a governmental agency;
3. A list of any criminal charges pending, convictions, and time of service in jail or prison as related to any applicable offense that is specified in subsection (i)(1)j.; and
4. One passport-type photograph of the applicant of a size specified by the Chief of Police, which shall become part of the photographic identity card if a permit is issued. If an on-site card is required under subsection (d)(9) herein, then the application must contain a second photograph of the same type.

b. Each application shall be accompanied by a nonrefundable processing fee of sixty dollars (\$60.00). Each applicant shall be required to provide fingerprints to be used to verify the applicant's identity and criminal history information. Each applicant shall sign a waiver and authorization form authorizing the Chief of Police to request on behalf of the applicant criminal history reports from the Texas Department of Public Safety and any appropriate federal agency.

c. The Chief of Police shall issue the permit within ten (10) days from the date of filing of the application unless he finds that the application is incomplete or that the applicant has been convicted of or spent time in jail or prison for an offense specified in the applicable provisions of subsection (i)(1)j. within the time specified therein. If the application is not granted, then the applicant shall be given written notice of the grounds and of his right to provide a written response as provided by subsection (o)(1), within ten (10) days from the date of filing of the application.

d. Each permit issued by the Chief of Police shall consist of either one (1) or two (2) photographic identification cards.

1. Each employee of a sexually oriented business shall have an identification card, called a personal card.
2. If a sexually oriented business is required by subsections (q)(7) or (x)(3) to have an on-site manager, then each employee of such a business shall have a second identification card, called an on-site card.

e. If the Chief of Police fails to issue or deny a permit application within the time specified in subsection (2)c. above, then the applicant shall, upon written request, be

immediately issued a temporary permit which shall be valid until the third day after the applicant is given notice of the decision of the Chief of Police.

f. If any personal card or on-site card is lost or stolen, the holder thereof shall immediately notify the Chief of Police and request a replacement, which shall be issued for a fee of thirty-five dollars (\$35.00) within three (3) days following verification of the identity of the holder.

g. No permit application shall be accepted nor shall a permit be issued to any person who does not provide proof that he is at least eighteen (18) years old. Any permit issued by virtue of any misrepresentation or error to any person under age eighteen (18) shall be void.

h. The Chief of Police may obtain criminal history record information maintained by the Texas Department of Public Safety from the Texas Department of Public Safety for any person required to obtain a permit under this Section.

(3) *Term, transfer, amendment.*

a. A permit is valid for two (2) years from the date of its issuance.

b. A permit is personal to the named permit holder and is not valid for use by any other person.

c. Each permit holder shall notify the Police department of his new address within ten (10) days following any change of his address.

(4) *Display.*

a. Each manager or employee shall conspicuously display his personal card upon his person at all times while acting as a manager or employee of a sexually oriented business.

b. Each manager or employee who is required under this Section to have an on-site card shall provide his on-site card to the manager or on-site manager in charge of the sexually oriented business to hold while the manager or employee is on the premises.

c. In any prosecution under subsection (1) above, it shall be presumed that the actor did not have a permit unless the permit was in display as required under subsection (a) above.

(5) *Revocation.* In the event that the Chief of Police has reasonable grounds to believe that any permit holder has been convicted of or spent time in jail or prison for an offense as specified in the applicable provision of subsection (i)(1)j. within the time specified therein, then the Chief of Police may revoke the permit under the procedures set out in subsection 15.

(6) *Appeals.* If the Chief of Police is authorized to deny the issuance of a permit, or revoke a permit as provided in this Section, the applicant or permittee may appeal the decision of the Chief of Police in accordance with the procedures in subsection 15.

(aa) *Defenses.*

It is a defense to prosecution under subsections (e), (g), (r) and (u) that a person appearing in a state of nudity or simulated nudity did so in a modeling class operated:

- (1) By a proprietary school licensed by the state; a college, junior college, or university supported entirely or partly by taxation;
- (2) By a private college or university which maintains and operates educational programs in which credits are transferrable to a college, junior college, or university supported entirely or partly by taxation; or
- (3) In a structure:
 - a. Which has no sign or other advertising visible from the exterior of the structure indicating a nude or simulated nude person is available for viewing;
 - b. Where in order to participate in a class a student must enroll at least three (3) days in advance of the class; and
 - c. Where no more than one nude or simulated nude model is on the premises at any one time.

(bb) *Location appeal board; exemptions from location restrictions.*

- (1) The Board of Adjustment shall serve as a location appeal board, and shall have the power to rule on the appropriate disposition of applications for exemptions from the location restrictions for sexually oriented businesses set forth in subsection (e). The location appeal board shall follow the rules and procedures set forth in this subsection.
- (2) If the Chief of Police denies the issuance of a license to an applicant because the location of the sexually oriented business is in violation of subsection (e), then the applicant may, not later than ten (10) calendar days after receiving notice of the denial, file with the City Secretary a written request for an exemption from the location restrictions.
- (3) If the written request is filed with the City Secretary within the 10-day limit, the location appeal board shall consider the request. The City Secretary shall set a date for the hearing within sixty (60) days from the date the written request is received.
- (4) The Location Appeal Board shall hear and consider evidence offered by any interested person. The formal rules of evidence do not apply.
- (5) The location appeal board may grant an exemption from the location restrictions of subsection 5 if it makes the following findings:
 - a. That the location of the sexually oriented business will not have a detrimental effect on nearby properties or be contrary to the public safety or welfare;
 - b. That the location of the sexually oriented business will not downgrade the property values or quality of life in the adjacent areas or encourage the development of urban blight;
 - c. That the location of the sexually oriented business in the area will not be contrary to any program of neighborhood conservation nor will it interfere with any efforts of urban renewal or restoration; and

- d. That all other applicable provisions of this Section will be observed.
- (6) In making the findings specified in subsection (bb)(5), the board shall take into account, among other things:
- a. Crime statistics of the location and its eight-hundred-foot radius, without regard to city boundaries, maintained by the appropriate law enforcement agency for the previous six-month period;
 - b. Parker County Appraisal District appraisals for the location and its one-thousand-foot radius, without regard to city boundaries, taking into account any decline or increase in property values;
 - c. Vacancy rates of residential, commercial, or office space within the surrounding one-thousand-foot radius, without regard to city boundaries; and
 - d. Any evidence regarding the award or denial of any public or private grants for neighborhood conservation, urban renewal, or restoration for any property located within a one-thousand-foot radius, without regard to city boundaries.
- (7) The board shall grant or deny the exemption by a majority vote. Failure to reach a majority vote approving the exemption shall result in denial of the exemption. Disputes of fact shall be decided on the basis of a preponderance of the evidence. The decision of the license appeal board is final.
- (8) If the board grants the exemption, the exemption is valid for one (1) year from the date of the board's action. Upon the expiration of an exemption, the sexually oriented business is in violation of the locational restrictions of subsection 5 until the applicant applies for and receives another exemption.
- (9) If the board denies the exemption, the applicant may not reapply for an exemption until at least twelve (12) months have elapsed since the date of the board's action.
- (10) The grant of an exemption does not exempt the applicant from any provisions of this Section other than the locational restrictions.

Chapter 6. Enforcement; Penalties

Sec. 12-6-1. Effect of interpretation.

The provisions of this Ordinance shall be held to the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity, and general welfare. It is not intended by this Ordinance to interfere with or abrogate or annul any easements, covenants or other agreements between parties, provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon height of buildings, or requires larger open spaces than are imposed or required by agreements, the provisions of this Ordinance shall govern.

Sec. 12-6-2. Preserving rights in pending litigation and violations under existing ordinances.

By the adoption of this Ordinance, no presently illegal use shall be deemed to have been legalized unless such use specifically falls within a use district where the actual use is a

permitted use. Otherwise, such use shall remain an illegal use. It is further the intent and declared purpose of this Ordinance that no offense committed, and no liability, penalty, or forfeiture, either civil or criminal, incurred prior to the time the prior zoning ordinance was repealed and this Zoning Ordinance adopted, shall be discharged or affected by such repeal; but prosecutions and suits for such offenses, liabilities, penalties, or forfeitures may be instituted or causes presently pending proceeded with in all respects as if such prior ordinance had not been repealed.

Sec. 12-6-3. Offenses, penalties, and enforcement procedures.

(a) *Enforcement activities.* The provisions of the Zoning Ordinance may be enforced by any officers or employees of the City who are authorized to issue citations, including, but not limited to employees of the Planning and Development department, Building Inspections department, and Police department and their duly authorized designees. These authorized persons shall have the right to enter upon any premises at any reasonable time for the purpose of making inspection of structures or premises necessary to carry out the enforcement of this Ordinance.

(b) *Responsible parties.* The owner or owners of any structure or premise or part thereof, where anything in violation of this Ordinance shall be placed or shall exist, any architect, builder, contractor, agent, person or corporation employed in connection therewith, and who may have assisted in the commission of any such violation, shall be subject to prosecution for violation of the provisions of this Ordinance and shall, upon conviction, be fined as herein provided. As provided herein, the term “person” shall be defined to include any of the above responsible parties.

(c) *Offenses.*

(1) A person commits an offense if he/she erects, constructs, reconstructs, alters, repairs, converts or maintains a use, sign or structure in violation of any applicable provision of this Ordinance.

(2) A person commits an offense if he/she fails to maintain any property, sign or structure in accord with the applicable requirements of this Ordinance.

(3) A person commits an offense if he/she fails to cease and desist work after issuance and notice of a “stop work” order duly issued by the Director of Planning and Development, Building Official or other duly authorized officer or employee of the City.

Each and every day that a violation of this Ordinance continues shall constitute a distinct and separate offense for which prosecution may be had.

(d) *Fines and penalties.* A person who violates any provision of this Ordinance shall be punished, upon conviction, by a fine not to exceed two thousand dollars (\$2,000.00).

(e) *General remedies.* The City may institute any appropriate action or proceedings to prevent or abate any illegal activity under this Ordinance, including but not limited to revocation of permits, removal of the illegal use or structure, and institution of legal action in a court of competent jurisdiction.

(f) *Stop work orders.*

(1) Whenever any construction activity is being done contrary to any requirements of this Ordinance or contrary to the terms of an approved permit, the Director of Planning and Development, Building Official or other authorized officer or employee of the City may order the work stopped by notice in writing, served on the property owner or authorized agent. Notice shall be given before the order shall be effective, except when the order must be effective immediately to protect and preserve the public health, safety, or general welfare. Any person so notified of a stop work order shall immediately cease and desist from further construction or work on the subject project, until corrected by compliance and authorized by the Director of Planning and Development, Building Official or other authorized officer or employee of the City to proceed with the work. This effect and prohibition of a stop work order shall extend throughout any period of appeal of the said order.

(2) The owner or authorized agent may appeal a stop work order to the Director of Planning and Development or Building Official by giving written notice within five (5) working days of the issuance of the stop work order. The Director of Planning and Development or Building Official shall hear the appeal within five (5) working days of receiving the notice of appeal.

(g) *Municipal court actions.* The City Attorney is authorized to prosecute violations of this Ordinance in the Municipal Court of the City.

(h) *Civil court actions.* The City Attorney is authorized to file and prosecute an action at law or in equity, where permitted under the laws of Texas, in a court of competent jurisdiction to enforce the provisions of this Ordinance. Civil enforcement may include, but is not limited to, seeking injunctive relief, civil penalties or an action for repair or demolition of a structure. The initiation of one form of enforcement action by the City Attorney will not preclude the City Attorney from initiating any other form of enforcement action or from pursuing criminal prosecution of violations.

(i) *Property owner's right to bring suit.* In addition to the City's right to enforce any provisions of this Ordinance, the right is hereby conferred and extended upon any property owner owning property in any district, where such property owner may be affected or invaded by a violation of the terms of this Ordinance, to bring suit in any court having jurisdiction thereof and obtain such remedies as may be available at law and equity for the protection of the rights of such property owners.

PASSED AND APPROVED by the City Council of the City of Weatherford, Texas on the ____ day of _____, 20____.

TABLE INSET:

(City's Seal)	<hr/> Mayor City of Weatherford, Texas
---------------	---

ATTEST:

City Secretary
City of Weatherford, Texas

APPROVED AS TO FORM:

City Attorney
City of Weatherford, Texas